CALIFORNIA

BOARD OF REGISTERED NURSING

SUNSET REVIEW REPORT

2002

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EXECUTIVE SUMMARY

The practice of registered nursing has been regulated for almost a century in California. The impetus for regulation was protection of the public by means of a state examination and registration. Subsequent technological advances and increasing complexity of nursing care and healthcare delivery systems make such regulation even more critical. The Board of Registered Nursing (BRN) is the state regulatory agency charged with the regulation of registered nurses through the implementation, interpretation, and enforcement of the Nursing Practice Act.

As expressed in its mission statement, the BRN is committed to protecting the health and safety of consumers and promoting quality registered nursing care in the State of California. The BRN implements regulatory programs and performs a variety of activities to achieve its mission including:

- Setting educational standards for prelicensure and advanced practice nursing programs.

- Issuing and renewing registered nurse licenses and advanced practice nursing certificates.

- Implementing an Enforcement Program to take disciplinary action against registered nurses' licenses for violations of the Nursing Practice Act.

- Managing a Diversion Program to intervene with registered nurses whose practice may be impaired due to chemical dependency or mental illness.

- Monitoring and providing input on legislation and regulations.

In its ongoing efforts to effectively and efficiently fulfill its statutory mandate, the BRN developed and annually revises a strategic plan, implements a program of continuous improvement, and assumes a proactive leadership role in the identification and resolution of issues that impact the education, licensing, and disciplining of registered nurses. Since the last Sunset Review, the BRN has implemented a number of programmatic and operational changes and enhancements. One of the major changes has been the increased utilization of Internet and computer technology to provide services and information to the public and BRN licensees. These include:

- BRN Web page, www.rn.ca.gov, which receives an average of 2,500 visitors per day.

- Nurse Web site, www.nurse.ca.gov, which assists in the recruitment and retention of registered nurses and links to other sites providing information about the profession of registered nursing.

- Online license verification for registered nurses and continuing education providers, with over 444,000 licenses verified.

- Online application process for licensure by endorsement.

- Online license and advanced practice certificate renewal.

The BRN has maintained fiscal viability and stability while performing its functions and retaining fees at the minimum statutory levels. A sufficient reserve fund was also maintained and was 13.8 months in fiscal year 2001/02. However, as a result of a $12 million loan to the General Fund to assist in offsetting the General Fund shortfall, it is projected that the reserve will decline dramatically to 3.9 months in fiscal year 2002/03.

As a result of its ongoing evaluation of services and programs, active involvement with consumer groups, professional organizations, and other regulatory agencies, as well as input received at two public forums held in winter 2001, several significant issues were identified. A set of recommendations was developed to resolve the issues and enhance public protection. The issues and recommendations are described below.

2002 ISSUES AND BOARD RECOMMENDATIONS

NURSING SHORTAGE: The well-documented and publicized shortage of registered nurses in the workforce is the most critical issue impacting nursing. It is projected that there will be a shortfall of 25,000 nurses within the next six years. Such a shortfall will create a public health crisis, place consumers at risk, and have a crippling effect on healthcare delivery. The BRN has been at the forefront of researching and strategizing to resolve the issue. BRN efforts include: identification and elimination of barriers to licensing; approving new prelicensure nursing programs; and active involvement with the Governor's Nurse Workforce Initiative. Barriers to resolution of the current and prevention of future shortages include the limited availability of current registered nurse data and a prelicensure nursing education system that, in some instances, impedes rapid student matriculation. Board recommendations to address these barriers are:

Recommendation: There be a statutory mandate that the BRN conduct research related to nursing demographics, workforce, and education at least every three years with funding appropriated from the BRN special fund.

Recommendation: The BRN should continue to work the with the Chancellor of the California Community Colleges, the Chancellor of the California State University, the President of the University of California, and the President of the Association of Independent Colleges to reform the educational system to increase student access and shorten the time for completion of nursing programs. Prerequisite and co-requisite courses should be standardized and course requirements for nursing curricula should be aligned.

ENFORCEMENT CASE AGING: The BRN recognizes the importance of public protection through the appropriate and timely disciplining of registered nurses' licenses for violation of the Nursing Practice Act. This is evidenced by the expenditure of approximately 70% of the BRN budget on enforcement-related activities, as well as numerous measures implemented to maximize the Enforcement Program's effectiveness and efficiency. Despite these efforts, there has been a steady and unacceptable increase in time from the initial filing of a complaint to resolution. The major contributing factor is the time required for the Division of Investigation's completion of investigations.

Recommendation: DCA should assist the Division of Investigation in the development and implementation of strategies to expedite cases referred by the BRN.

ENFORCEMENT TRACKING SYSTEM: DCA maintains an enforcement tracking system for all boards and bureaus and is developing a new Professional Licensing and Enforcement Management System (PLEMS), which should be operational in 2006. In the 1996 Sunset Review Report, the Board recommended that DCA enhance the tracking system to enable better tracking of cases, linking of data, and generating reports. The current tracking system is still inadequate. PLEMS is expected to be a better system, but four years is too long to rely solely on the existing system.

Recommendation: DCA should continue to make improvements and enhancements in the existing enforcement tracking system while working on the development and implementation of an integrated department-wide licensing and enforcement computer system.

SCHOOL HEALTH: California's public school children are being placed at risk due to the inappropriate use of unlicensed personnel to provide nursing care. The major contributing factor is a conflict between the Nursing Practice Act and the Education Code, which permits unlicensed personnel to perform nursing tasks that in other settings they would be prohibited from performing. For the past several years, the BRN has worked collaboratively with the California Department of Education (CDE) on school health-related issues. However, in spite of these efforts, issues pertaining to nursing care in schools continue to increase. Given the existing statutes and the shortage of registered nurses in schools, it is anticipated that the situation will only worsen.

Recommendation: The CDE, in collaboration with the BRN and other interested organizations, should develop and implement strategies, including possible legislative remedies, to resolve the increasing number and complexity of school health related-issues and to ensure that pupils receive safe and appropriate care.

PART I

BACKGROUND INFORMATION

AND

OVERVIEW OF THE CURRENT REGULATORY PROGRAM

BACKGROUND & DESCRIPTION OF THE BOARD & PROFESSION

MISSION---The Board of Registered Nursing was established in 1905 to protect the public by regulating the practice of registered nurses. The BRN is responsible for implementation and enforcement of the Nursing Practice Act: the laws related to nursing education, licensure, practice, and discipline. The Board adopted the following mission statement, which is commensurate with its statutory mandate and responsibility:

> **The mission of the Board of Registered Nursing is to protect the health and safety of consumers and promote quality registered nursing care in the State of California. (BRN Strategic Plan, 2002)**

The BRN implements regulatory programs and performs a variety of activities to protect consumers. These programs and activities include: setting registered nurse educational standards for prelicensure and advanced practice nursing programs; approving California registered nursing programs; issuing and renewing registered nurse licenses; issuing certificates for advanced practice nurses and public health nurses; taking disciplinary action for violation of the Nursing Practice Act; and managing a Diversion Program for registered nurses whose practice may be impaired due to chemical dependency or mental illness. Detailed information about each of these activities is provided later in the report.

Recognizing that registered nursing is an integral component of the healthcare delivery system, the BRN affects public policy by collaborating and interacting with legislators, consumers, healthcare providers, healthcare insurers, professional organizations, and other state agencies. This participation enhances the Board's ability to interpret the Nursing Practice Act and establish policies for its regulatory programs and activities, which are then implemented by BRN staff.

CREATION OF BRN AND LICENSING ACT---At the turn of the century, the idea of nurse registration emerged in order to separate trained from untrained nurses as a means to protect the public. Patients were confused about who was qualified to deliver nursing care but were unable to advocate for themselves, hence the profession addressed the problem on their behalf. In 1901, the president of the International Council of Nurses proposed that every country should "work for suitable legislative enactment regulating the education of nurses and **protecting the interests of the public** by securing state examinations and public registration with the proper penalties for enforcing the same."

In March 1905, the California Legislature enacted a law providing for qualified nurses to be issued certificates of registration by the Board of Regents of the University of California. The Board of Regents had the power to set standards, administer examinations, approve educational programs, issue certificates, and revoke certificates of registered nurses. Use of the title "registered nurse" without certification was a misdemeanor.

In August 1913, the Legislature formed the Bureau of Registration of Nurses under the State Board of Health, whose charge was to administer the examination and registration of qualified

registered nurses, to accredit schools of nursing, and to revoke licenses of nurses found to be unsafe to practice. Use of the title "registered nurse" was unlawful unless the person was registered by the Bureau. The Bureau of Registration of Nurses was placed under the State Board of Public Health, within the Department of Public Health, in 1927.

In September 1939, Legislation created the Board of Nurse Examiners within the Department of Professional and Vocational Standards, and five registered nurse Board members were appointed by the Governor. With this 1939 legislative change, the mandatory Nursing Practice Act (NPA) was established describing the practice of nursing and moving registration to licensure with a defined scope of practice rather than registration. The title "registered nurse" has continued over the years although regulation is now at the licensure level rather than the registration level. Subsequent statutory changes resulted in the Board's current name, Board of Registered Nursing, and its composition of three public members, five registered nurse members, and one physician member.

One of the most significant modifications of the Nursing Practice Act in recent history was made during the 1973-74 legislative session and became effective in 1975. Business and Professions Code Section 2725, which defines the scope of registered nurse practice, was amended for the first time since 1939. The Legislature recognized that "nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities." The legislative intent in amending the section was to:

- Provide clear legal authority for functions and procedures that had common acceptance and usage as nursing functions.

- Recognize the existence of overlapping functions between physicians and registered nurses.

- Permit additional sharing of functions within organized healthcare systems.

The amendment provided a more current description of registered nursing practice, as well as a mechanism for expansion of practice consistent with healthcare technology advancements and expansion of scientific knowledge.

Legislation in the 1974 also added certification of registered nurses in specialty practice categories as a Board function. Historically, the role of boards is "registration and/or licensure." Certification in specialty areas is generally within the domain of professional organizations. However, because there were no laws restricting use of specialty titles, there was conflicting usage of certain titles. There was also a lack of congruency between use of the titles and qualifications of the registered nurses using them. This was confusing to the public. Additionally, third-party reimbursement (e.g., Medicare, Medi-Cal, etc.) for services provided by advanced practice nurses required certification by a state agency. In order to prevent misuse of specialty titles, eliminate consumer confusion, and facilitate reimbursement for services, statutory remedies were required. Commencing in 1974, laws have been enacted that provide title protection, standardize the educational requirements, and define the scope of practice for certain specialty categories. The BRN issues certificates to registered nurses in the following specialty areas:

- Nurse-midwives (1974); nurse-midwife furnishing number (1991)
- Nurse practitioners (1977); nurse practitioner furnishing number (1986)
- Nurse anesthetists (1983)
- Psychiatric/mental health nurses (1984)
- Public health nurses (1992)
- Clinical nurse specialists (1997)

Since 1976, the BRN has implemented three major statutorily authorized programs to further enhance consumer protection. In 1976, continuing education became mandatory for renewal of registered nurse licenses and the BRN's Continuing Education Program was established to implement the statute. The BRN's Diversion Program was established in 1985. It is a voluntary alternative to traditional discipline for registered nurses whose practice might be impaired due to chemical dependency or mental illness. In 1996, the BRN implemented a Citation and Fine Program to address minor/technical violations of the Nursing Practice Act in lieu of the traditional discipline.

In 1994, the Board approved its Strategic Plan, which is revised and updated regularly. The Plan clearly articulates the BRN's mission to protect consumers and promote quality registered nursing care. Furthermore, the Plan affirms the Board's commitment to having a proactive role in structuring 21st century healthcare and evaluating nursing trends in order to make sound policy decisions.

BOARD COMPOSITION---Pursuant to Section 2702 of the Business and Professions Code, the Board is composed of nine members. Seven of the members are appointed by the Governor, one by the Senate President Pro Tempore, and one by the Assembly Speaker. Board composition includes three public members, three registered nurses in direct patient care practice, a registered nurse educator, a registered nurse administrator, and a physician. The Board members work through a committee structure to assess issues, set policy, and make enforcement decisions.

The current size and composition of the Board has proven to be effective. Nine members provide a reasonable size for full participation, constructive interaction, and diverse viewpoints. Historically, the consumer has been well represented by the three public members who have been active participants in the work of the Board and frequently serve in leadership positions as president, vice president, and committee chairs. At the same time, the registered nurse members bring both their subject matter expertise, as well as their legal mandate for patient advocacy, to the table. It has been clear that a majority of nursing members are needed for their nursing expertise because the Board has faced complex enforcement cases as well as practice and educational policy dilemmas. To round out the diversity of the group, the current Board has found that the physician member position brings a multi-disciplinary approach to the Board and assists in viewing consumer care across a continuum.

Current Board Members

Name	Category	Appointed	Term Expires	Vacancy Period	Appointing Authority
Grace M. Corse	RN Direct Care	06/02	06/03	06/00 to 06/02	Governor
Sharon Ecker, Chair, Nursing Practice Committee	RN Direct Care	11/96	06/02*	03/96 to 11/96	Governor
Sandra Erickson, President; Chair, Administrative Committee	RN Administrator	12/98	06/05	06/1/02 to 06/18/02	Governor
Cynthia Johnson	RN Educator	08/02	06/05	06/02 to 08/02	Governor
Thomas C. Kravis	Physician	11/98	06/02*	None	Governor
Carmen Morales-Board	RN Direct Care	06/02	06/03	06/00 to 06/02	Governor
LaFrancine Tate, Vice President; Chair, Legislative Committee	Public	02/99	06/04	12/98 to 02/99	Senate
Daniel C. Weitzman	Public	11/01	06/04	06/01 to 11/01	Assembly
Vacant	Public			03/96 to 11/96 06/02 to present	Governor

*Remaining on Board for statutorily authorized one-year grace period.

The Board had a quorum for all meetings except for the June 2002 meeting. The meeting, which had been calendared for 6 months, was held and reports on items were received at the meeting, but no action was taken. Prior to the meeting, disciplinary matters were rescheduled to a future meeting.

BOARD COMMITTEES---The BRN works effectively through a structure of five Board committees, which conduct public meetings, study and discuss issues, and make recommendations to the full Board. Each committee is comprised of two or more Board members and meets at least four times a year. The committees and functions are as follows:

Administrative Committee---Considers and advises the Board on matters related to Board organization and administration, including contracts, budgets, and personnel. The Committee is comprised of the Board President, Vice President, and BRN Executive Officer.

Diversion/Discipline Committee---Advises the Board on matters related to laws and regulations pertaining to the Diversion and Enforcement Programs.

Education/Licensing Committee---Advises the Board on matters relating to: nursing education, including approval of prelicensure and advanced practice nursing programs; the national registered nurse licensing examination (NCLEX-RN); and continuing education and competency.

Nursing Practice Committee---Advises the Board on matters relating to nursing practice, including common nursing practice issues and advanced practice issues related to nurse-midwife, nurse anesthetist, clinical nurse specialist, and nurse practitioner practice. The Committee also reviews staff responses to proposed regulation changes that may affect nursing practice.

Legislative Committee---Provides information and makes recommendations to the Board and Committees of the Board on matters relating to legislation affecting registered nurses.

In addition to these five committees, the Nursing Practice Act authorizes appointment of a Nurse-Midwifery Advisory Committee and Diversion Evaluation Committees. The Board is also authorized to appoint advisory committees, with permission of the Director of the Department of Consumer Affairs, as needed to advise the Board on matters related to implementation of the Nursing Practice Act. The current advisory committees and their functions are:

Nurse-Midwifery Advisory Committee (NMAC)---The NMAC advises the Board on nurse-midwife practice and education issues, evaluates equivalency applications for certification, and members may serve as expert witnesses in the evaluation of complaints against nurse-midwives. The first NMAC was appointed in 1984. The Committee is composed of five nurse-midwives knowledgeable about nurse-midwifery practice and education, one physician who practices obstetrics, one registered nurse familiar with nurse-midwifery practice, and one public member. This Committee is authorized under B&P Section 2746.2.

Diversion Evaluation Committees (DECs)---The Board is authorized to establish Diversion Evaluation Committees (B&P Section 2770.2). Each DEC is comprised of three registered nurses, a public member, and a physician who each have expertise in chemical dependency or mental illness. The responsibilities of the DECs are to: determine whether or not a registered nurse may be admitted to the Diversion Program; establish a rehabilitation program for Diversion Program participants; approve treatment programs for participants; and advise the Board on Diversion Program policies.

Nurse Practitioner Advisory Committee (NPAC)---The NPAC advises the Board on nurse practitioner education and practice issues. Formed in 1995, the Committee consists of three nurse practitioners representing NP educational programs, one registered nurse familiar with nurse practitioner practice and education, and two representatives of nurse practitioner organizations.

Education Advisory Committee---In April 2002, the Board approved appointment of this Committee to support the goals of the Governor's Nurse Workforce Initiative. The Committee will provide expert input on educational issues related to reforming nursing education to assist in alleviating the nursing shortage.

Nursing Workforce Advisory Committee---In November 2001, the Board approved formation of a nine member advisory committee to: provide guidance to the Board on the content of surveys regarding registered nurse workforce issues; recommend strategies to address disparities in workforce projections; and recommend strategies to address factors in the

workplace that positively and negatively affect the health and safety of consumers and nursing staff.

Committee Goals, Objectives, and Achievements---To maximize effectiveness and enhance communication, the five Board committees and advisory committees each develop program-specific goals and objectives on a two-year cycle. The entire Board reviews and adopts each set of committee goals and objectives. The committees report annually on progress in the achievement of the goals and objectives to the full Board.

Attachment 1 is the BRN's organization chart.

WHAT THE BRN REGULATES---The BRN is responsible for regulating the practice of registered nurses in California. Currently, there are over a quarter-million California licensed registered nurses, with over 14,000 new licenses issued annually, and more than 125,000 licenses renewed annually. The BRN also regulates interim permittees, i.e., applicants who are pending licensure by examination, and temporary licensees, i.e., out-of-state applicants who are pending licensure by endorsement. The interim permit allows the applicant to practice registered nursing under the supervision of a registered nurse. Similarly, the temporary license enables the applicant to practice registered nursing pending a final decision on the licensure application. The BRN issues certificates to:

- Clinical Nurse Specialists
- Nurse Anesthetists
- Nurse Practitioners
- Nurse-Midwives
- Public Health Nurses

The titles listed above are those most commonly used by California registered nurses and use of the titles is protected under the Business and Professions Code. The BRN also issues furnishing numbers to nurse practitioners and nurse-midwives and registers Psychiatric/Mental Health Nurses. In addition to its licensing and certification functions, the BRN also regulates and approves the following entities:

- California Prelicensure Registered Nursing Programs
- Nurse-Midwifery Programs
- Nurse Practitioner Programs
- Registered Nursing Continuing Education Providers

BRN CHANGES---The BRN continuously evaluates its operational and organizational effectiveness through a variety of methods including strategic planning, total quality management, external audits, and assessment of achievement of goals and objectives annually by the Board. The evaluative methods have resulted in a number of programmatic and

operational changes and enhancements. The changes and enhancements are summarized below.

INTERNET SERVICES AND COMPUTER TECHNOLOGY Over the course of the last six years, the BRN has been a leader in the implementation of Internet-based services to the public and licensees as evidenced by the following:

Local Area Network---As of December 1996, BRN staff were all connected to a Local Area Network, enhancing internal communication and automation.

BRN Web Page---The BRN Web page, www.rn.ca.gov, "went live" March 1999 and receives an average of 2,500 visitors per day.

Nurse Web Site---In 2002, the BRN created a Web site, www.rn.ca.gov, to assist in the recruitment and retention of registered nurses. The Web site links to the best existing sites, such as the one for Johnson & Johnson, to provide dynamic information about why nursing is a good career choice, how to get financial aid, how to find the right nursing school, and how to become licensed. The Web site also provides the latest updates on the California Nurse Workforce Initiative. For development purposes, the Web site is housed at Department of General Services, but eventually will be transferred to the Department of Consumer Affairs and maintained by the BRN.

Online License Renewal---Registered nurses became the first profession in California to be able to renew their licenses on the Internet in January 2001. The BRN volunteered to be the first agency to pilot the system that is managed by the Department of General Services as part of the Governor's e-Government Project. Benefits for licensees include:

- Around-the-clock access that fits busy schedules
- Ability to pay with a credit card with no transaction fee
- More prompt renewal transaction
- Receipt for proof of renewal transaction.

Online License Verification---In July 2001, the BRN began to provide the public with online license verification for registered nurses and continuing education providers. This "licensee look-up" system has been received very favorably, with over 444,000 licenses verified as of June 2002.

Online Endorsement Application for Licensure---In collaboration with the Department of General Services, the BRN has developed an online application system for registered nurses endorsing to California from other states. The system became operational August 2002.

Additional Interactive Services---In addition to applying for and renewing licenses online, registered nurses also can change their addresses, request duplicate licenses, and renew advanced practiced certificates as of August 2001.

Nursys-National Discipline and License Verification System---The National Council of State of Boards of Nursing initiated a new computer system to exchange discipline information between states in the spring 2000. Previously, the data was exchanged through paper reports. The BRN participates in this computerized discipline information exchange system. In addition to discipline information, the *Nursys* system also includes license verification data for approximately eight states that have computer systems that are compatible with *Nursys*. (The BRN's computer system is not sufficient or comprehensive enough to participate in this national interstate license verification system.)

Participation in DCA Computer System Planning---In fall 2000, a BRN staff member was appointed to the DCA planning committee for a new department-wide database computer system titled the Professional Licensing and Enforcement Management Systems (PLEMS). (Subsequently, in October 2001, PLEMS was combined with the online licensing project as part of the Department of General Services' e-Government project. DCA does not plan to include enforcement functions in this pilot. The project will start as a pilot for five licensing entities.)

STRATEGIC PLANNING In spring of 1994, the BRN undertook an in-depth strategic planning project to ensure its effectiveness and responsiveness to the public which it serves. The initial strategic plan was completed and adopted in February 1995. Beginning with spring 1997, the Department of Finance required all state agencies to submit approved strategic plans annually. The BRN has submitted updated plans annually to DCA for approval through Agency and the Governor's Office. The strategic plan serves as a blueprint to assist the BRN in: achieving its statutory mandates; acting as a change agent; and ensuring that registered nursing practice, education, and discipline regulation keeps pace with emerging issues. (A copy of the BRN Strategic Plan will be submitted with the Sunset Review Report.)

LICENSING PROGRAM The Licensing Program is responsible for initial registered nurse licensure by examination and endorsement and issuance of BRN-specialty certificates. The Program was subject to an internal DCA audit in 2001. The audit findings were that: the Program had established adequate goals and objectives, which it was meeting; and the licensing system was operating as intended. A single deficiency was corrected by establishing abandonment procedures for applications that lack social security numbers.

Changes in the Licensing Program since 1996 include the following:

Plastic License Card---To reduce the risk of fraud and licensee impersonation, the BRN replaced its paper license with a tamper-resistant plastic card license in July 1997. The card bears a unique hologram and a secure signature panel to improve its security. The BRN was able to limit the cost to only $1.00 per license card by entering into an agreement with other state boards of nursing to obtain a joint contract. There was a cost saving due to the large number of nurses' licenses produced by the vendor under this agreement.

Nursing Practice Act Provided to New Licensees---In July 1997, the BRN began to send a copy of the Nursing Practice Act to all new licensees. In addition, on a one-time basis, the BRN sent a copy of the Practice Act to over 250,000 current registered nurses in July 1997. (The BRN provides the entire text of the most current Nursing Practice Act and regulations on

its Web site to enable registered nurses to readily research their responsibilities as professional nurses.)

Retired Nurse Certificate---To recognize registered nurses who retire from the practice of nursing, the BRN developed an honorary certificate in fiscal year 1996/97. The BRN sends the certificate free of charge to registered nurses who notify the BRN of their retirement.

Transitioning to New Testing Service---Effective October 2002, *NCS/VUE* Testing Service will be the new vendor for the national registered nurse licensure examination, NCLEX-RN. The Board met in April 2000 with representatives of the new testing service to plan the transition to ensure a valid, secure exam. The BRN is actively participating in all aspects of the transition, including *Alpha* and *Beta* testing projects. Improvements provided by *NCS/VUE* include:

- Around-the-clock access for candidates registering and scheduling examinations.
- Ability to pay with a credit card with no transaction fee.
- Quicker and more convenient registration process via the Internet or telephone.
- Candidates can receive their authorization to test confirmation via e-mail or U.S. mail.
- Rapid access, via Internet, by boards to candidates' examination results.

Live Scan Process for Fingerprinting---In December 2000, the BRN implemented Live Scan procedures for fingerprinting applicants seeking registered nurse licensure. This new computer technology allows applicants to go to one of over 150 Live Scan sites in California to have their fingerprints electronically scanned and transmitted. With this new technology, the Department of Justice can notify the BRN of results within a week if no prior criminal record is found. This represents a significant improvement to the one to three months turnaround time for the paper-based fingerprint system. For applicants completing the fingerprint process outside of California, where Live Scan is not available, the paper-based system is still accepted.

Special Renewal Provisions for Military Registered Nurses---The BRN consistently implements special renewal provisions for military registered nurses whenever the U.S. is engaged in military operations against any foreign power. The provisions include waiving late fees and continuing education requirements. The special provisions were invoked in:

- 1999 for registered nurses serving in the NATO military action in Kosovo.
- 2001 for registered nurses serving in the military during the U.S. response to the September 11, 2001, attacks.

Streamlined Out-of-State Endorsements---In October 2001, the BRN eliminated the requirement for submitting transcripts for the United States educated registered nurses seeking licensure in California. This change occurred after research showed significant commonality for nursing education across the United States.

Business Process Improvement---The BRN conducted an intensive business process improvement conference in September 2001 for licensing staff to create program

improvements. As a result, twelve workgroups were formed and they improved a number of procedural steps in the licensing process to speed licensure while maintaining security standards.

ENFORCEMENT PROGRAM The BRN Enforcement Program has responsibility for complaint intake and investigation, disciplinary actions, citations and fines, and probation monitoring. The Program was subject to the same DCA audit as the Licensing Program with similar overall findings relative to goals and objectives. Several areas that required refinement were identified and appropriate changes have been made.

Following is a summary of Enforcement Program changes that have been implemented since the last Sunset Review:

Operational and Organizational Changes---There have been structural changes to the operation of the Enforcement Program including:

- Creation of a case management system that allows analysts to track cases more effectively and monitor cases more closely. Analysts are responsible for monitoring the aging and progress on cases.

- Increase in the number of probation monitors from two to three enabling the Probation Unit to better monitor more than 300 registered nurses who are on probation for violations of the Nursing Practice Act. The number of probationers has increased from 200 to over 300 in the past four years.

- Development of 45 new tracking codes for use with the state's automated tracking system, thereby obtaining more accurate and complete data and facilitating tracking of cases.

Implementation of Citation and Fine System---In January 1997, the BRN's citation and fine system was implemented as an alternative to the disciplinary action process for certain violations of the Nursing Practice Act. As of June 30, 2002, 139 citations and fines have been issued.

Statutory Changes---The changes have been limited to minor/technical revisions that were included in DCA "Omnibus" legislation. The 2002 Omnibus Bill includes language to modify B&P Code Section 2751 to create a more streamlined license surrender process for registered nurses who are impaired by mental or physical illness.

Regulation Changes---There have been several amendments to discipline-related regulations. These include:

- Regulations to implement a citation and fine system became effective in August 1996. The Board approved amendments to the citation and fine system regulations in December 2000 and November 2001. The regulations have been promulgated for adoption.

- The BRN Disciplinary Guidelines were incorporated into regulation by reference in July 1997 and were amended in July 2000 to reflect changes in Board policy, the work environment, and nursing practice. The Board approved additional amendments for the same reasons in July 2001 and April 2002. The amendments have been promulgated for adoption.

- The "Substantial Relationship Criteria" regulations were amended to expand the list of crimes and acts considered to be substantially related to the qualifications, functions, and duties of a registered nurse and that could result in license denial or discipline. The amendment became effective July 2001.

Federal Reporting Mandate Implemented---In 2000, the Federal Office of the Inspector General implemented a new federal mandate requiring reporting of disciplinary actions against healthcare professionals to a national data bank, the Health Integrity and Protection Data Bank (HIPDB). The National Council of State Boards of Nursing is acting as the BRN's agent for this federal mandate.

DIVERSION PROGRAM The BRN Diversion Program was created in 1985 as an alternative to disciplinary action for registered nurses whose practice may be impaired due to chemical dependency or mental illness. Changes in the Program since the last Sunset Review Report are summarized below.

Contractor---Based on a competitive bidding process, MHN, Inc., previously Occupational Health Services, was awarded a three-year contract for Diversion Program services in 1996 and a one-year contract with two one-year renewal options in 2000. The contract was renewed in 2001 and 2002 and the current contract expires June 30, 2003.

Statutory Changes---The Diversion Program statute was amended in 1999 to enhance consumer protection. B&P Code Sections 2770.11 and 2770.12, pertaining to confidentiality of participants' records, were amended. Specifically, if a determination is made that a registered nurse who is terminated from the Program presents a threat to the public or his or her own health and safety, a copy of all diversion records for the participant are forwarded to the BRN Enforcement Program. The BRN may use any of the records it receives in any disciplinary proceeding against the registered nurse. The BRN is seeking, through the Department's Omnibus Bill (SB2021, Figueroa), to extend the same confidentiality of record change to applicants to the Program who are deemed to pose a threat to the public or themselves. The 1999 statute also provided that confidentiality of records rights are waived if the participant:

- Presents information relative to his or her participation in the Diversion Program during any Board disciplinary proceedings.

- Files a lawsuit against the Board relating to any aspect of the Diversion Program.

- Claims in defense to a disciplinary action that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation.

LEGISLATION Since 1996, the BRN has observed a steady increase in the number of bills that have an impact on registered nursing. This increase has a direct correlation with legislative efforts to address the rapidly changing healthcare environment. As healthcare changes, it has an impact on healing arts professionals, including registered nurses.

The BRN's involvement in the legislative arena includes tracking approximately 30 to 35 bills per year, testifying at hearings at the request of the Legislature, and implementing Nursing Practice Act-related legislation that becomes law. Additionally, the BRN assists, as necessary, in the implementation of enacted legislation that affects registered nursing but is not under the BRN's jurisdiction. Key legislation enacted since 1996 includes:

AB 90-Clinical Nurse Specialist Legislation (Stats. 1997, c. 159)---Authorized the BRN to issue certificates to clinical nurse specialists (CNSs) starting July 1998. In the first year, more than 1, 000 registered nurses were certified as CNSs. A 10-member task force provided guidance on standards and other issues during implementation of the new law.

AB 655-Nursing Education, Scott Commission (Stats. 1999, c. 954)---The legislation, which was not funded, required that a report related to registered nurse education be submitted to the Governor and Legislature by April 2000. Recognizing the importance of the legislation, the BRN took the lead role to facilitate formation of the Scott Commission pursuant to the legislation. The report recommended a plan and a budget to accomplish the following:

- Significantly increase the number of students graduating from nursing programs.

- Provide specialty training to registered nurses in the areas of critical care, emergency room, obstetrics, pediatrics, neonatal intensive care, and operating room.

Members of the Commission included the Chancellor of the California Community Colleges, the Chancellor of the California State University, the President of the University of California, and the President of the Association of Independent Colleges and Universities. Other members represented various nursing organizations and employers. (Funding was not approved to implement the Commission's recommendations.) A copy of the report will be submitted with the 2002 BRN Sunset Review Report.

AB 394-Unlicensed Assistive Personnel and Staffing Ratios (Stats. 1999, c. 945)---The bill was enacted as the result of the widespread usage of unlicensed assistive personnel (UAP) to perform registered nursing functions for which a license was required. The law, which amended the Nursing Practice Act, prohibits acute care hospitals from assigning unlicensed personnel to perform nursing functions in lieu of a registered nurse. The Board revised its advisory statement on the use of UAP to reflect the new law and the spring 2000 issue of *The BRN Report*, the BRN's official newsletter, contained an article about this law. The law also requires the Department of Health Services to adopt regulations that establish minimum licensed nurse-to-patient ratios in acute care hospitals. The BRN has maintained an active participatory role in the development process of these ratios.

AB 285-Telephone Medical Advice (Stats. 1999, c. 535)---Requires all registered nurses providing medical advice services in state or out-of-state, to patients at a California address, to be licensed by the BRN.

SB 816 (Stats. 1999, c. 749), SB 298 (Stats. 2001, c. 289), AB 1545 (Stats. 1999, c. 914) - Nurse Practitioners and Certified Nurse-Midwives Furnishing Controlled Substances and Drug Samples---Nurse practitioners and nurse-midwives have been statutorily authorized to furnish controlled substances since the mid-1990's; however, federal law requires inclusion of a Drug Enforcement Administration (DEA) number on prescriptions. SB 816 and SB 298 enable nurse practitioners and nurse-midwives to register with the DEA and obtain a DEA number. AB 1545 authorizes nurse practitioners to sign for the delivery or receipt of complimentary samples that have been requested by the supervising physician and to dispense controlled substances in primary, community, and free clinics. SB 298 extends the complimentary sample authority to nurse-midwives.

SB 349-Nursing Analysis (Stats. 2001, c. 435)---Requires the BRN to perform an analysis of the practice of registered nursing at least every five years, to be used to assist in the determination of required prelicensure nursing program subjects, validation of the licensing examination, and assessment of the current practice of nursing.

Other Legislation---Attachment 2 is a list of additional statutes enacted from 1996 to 2002 that amend the Nursing Practice Act or other statutes that affect registered nursing.

Legislative Hearings on the Nursing Shortage---In March 1998, the Senate Business and Professions Committee conducted an informational hearing on the nursing shortage and registered nursing practice issues. The Chairman, Senator Richard Polanco, invited three panels to address the Committee. The BRN Executive Officer participated on one of the panels. Discussion focused on the need for sufficient educational resources to prepare registered nurses to meet the needs of California consumers. In addition, Senator Polanco emphasized the need to continue data collection, workforce assessment, and planning efforts. The BRN was identified as the State agency most likely to be asked to fulfill data and planning needs.

In October 2001, Assemblywoman Helen Thomson convened a public hearing on the nursing shortage. The BRN Executive Officer and representatives from nursing education, practice, professional organizations, and the healthcare industry presented testimony on the nursing shortage.

Legislative Forum on Nursing Shortage---In spring 2000, the BRN Executive Officer was invited to participate in a legislative forum on the nursing shortage. Assembly Members Lou Correa and Martin Gallegos, then Chair of the Assembly Health Committee, initiated the forum. The BRN Executive Officer, along with other community healthcare leaders, considered licensure and certification issues as they relate to the nursing workforce.

REGULATIONS In addition to regulatory amendments previously described and Section 100 (minor or technical) changes, the following regulatory proposals have been approved since 1996:

Section 1419.3-Reinstatement of Expired License---The regulation was amended to:

- Eliminate the examination requirement for registered nurses renewing licenses that had expired for more than eight years if the renewal applicant held an active registered nurse license in another state or U.S. territory.

- Specify NCLEX-RN as the examination for 8-year renewal applicants who do not have an active registered nurse license in another state or U.S. territory (9/01).

Section 1448-Criteria for Evaluation of Equivalent Armed Services Training and Experience---The regulation was amended to ensure that military applicants met the BRN's educational standards for the preparation of a registered nurse. (4/00)

Section 1460-Qualifications for Nurse-Midwife Certification---The amendment repealed two methods of nurse-midwife certification. One method (challenging the nurse-midwifery curriculum) was no longer a viable option; the second method (post-licensure training and experience in maternal and child care and passage of an examination) was not equivalent to current educational standards in nurse-midwifery programs. (2/00)

Section 1412-High School Education or Equivalent---The amendment eliminated: the requirement for applicants for licensure to provide evidence of high school education in all cases; the details of a General Education Development GED certificate; and a provision related to senior matriculation. (10/99)

Sections 1417, 1490, 1491, 1492, 1493, 1494- Public Health Nurses---The regulations were updated to be consistent with the statutory fees, application procedures, and other BRN regulations. (10/98)

Section 1410-Application for License by Exam---The regulation was amended to enable the BRN to accept documentation it deems equivalent to having an official transcript on file so a license may be issued. (6/98)

Sections 1410, 1410.4, 1414, 1415, 1428.6-Examination/Application Processing Procedures---The amendments updated the regulations to be consistent with the computerized adaptive testing process and the changes in processing applications. (10/96)

Sections 1435, 1435.1—1435.7-Citation and Fine System---The regulatory action established the BRN citation and fine system. (8/96)

BOARD STUDIES AND REPORTS---The BRN has conducted several studies and surveys to assist in the analysis of identified problems and issues and in the development or revision of BRN activities, policies, and procedures. Copies of the studies and reports will be submitted with the BRN Sunset Review Report.

Demographic Survey of RNs---In February 1999, the Board released its third survey of California registered nurses. The study provided demographic information about working

nurses from 1997 and it compared results with the 1990 and 1993 BRN surveys. These surveys have proven to be useful to decision makers during the nursing shortage. The surveys provide employers, educators, and nurses with sound data for planning and trend analysis. Key findings of the survey included:

- The average age of registered nurses was 45, which is two years older than in 1990.
- Three-fifths of registered nurses were direct patient care providers.
- 55% of California registered nurses were educated in California, 24% in other states, and 21% in other countries.
- 60% of registered nurses worked in acute care hospitals.
- Average nursing income increased 43% from 1990 to 1997 from $31,504 to $45,073.

Recidivism Study for Reinstated Registered Nurses---In December 1999, the BRN completed a recidivism study of 98 registered nurses whose licenses were reinstated after previously being revoked by the Board. The study showed that 64% of the registered nurses had no subsequent disciplinary actions. The majority of those who were subsequently disciplined had violations related to chemical dependency (77%). This study was assistive to Board members as they evaluated their reinstatement decision processes.

Continuing Education and Competency Study---BRN staff did an extensive review of the continued competence issue and initiatives in October 2000. Several approaches, besides continuing education, have been suggested as methods to ensure continuing competency; however, many are still in some stage of pilot testing and require further validation.

Report on NCLEX-RN Pass Rate---In December 2000, the Board released a significant report analyzing declining pass rates on the national licensing examination (NCLEX-RN) for candidates from California nursing programs. A Board-appointed expert task force studied the problem and developed recommendations to assist nursing programs in improving their pass rates. The BRN regulates 98 California prelicensure nursing programs and one indicator of their success is the percentage of graduates who succeed on the NCLEX-RN. The NCLEX-RN is a job-related examination that is a valid measure of entry-level competency for registered nurses.

BRN School Nurse Advisory Committee Report---In response to concerns voiced by school nurses, the Board established a School Nurse Advisory Committee in fall 1996. The Committee's charge was to identify issues related to the provision of healthcare in the public school setting and to provide recommendations to the Board to address the issues. The Board approved the School Nurse Advisory Committee's report, detailing its findings and recommendations, in May 1998.

Annual Survey of Approved Prelicensure Registered Nursing Programs---This survey collects both programmatic and demographic data from Board-approved prelicensure nursing programs. The annual surveys provide aggregate information on characteristics of student population and faculty in nursing programs in California and are made available to the public

upon request. Nursing educators and administrators, professional organizations, private and public agencies, as well as researchers seek the information.

LICENSING DATA---Information about licensees is readily available to the public on a continuous 7 day a week/24 hour a day basis via the BRN Web site, www.rn.ca.gov, and a toll-free license verification system (1-800-838-6828). From these sources, the public can learn if:

- A person has a permanent California registered nurse license, the issuance and expiration dates, and county of address of record for the licensee.
- The license is active, inactive, or lapsed.
- The nurse has any BRN-issued certificates, e.g. nurse practitioner, nurse-midwife, etc.
- There is any disciplinary action or pending accusation against the license.

The above information about licensees can also be obtained from BRN staff during the regular business day, i.e., Monday through Friday from 8 to 5. Information about temporary licensees, interim permittees, and specifics about Board disciplinary actions can be obtained from staff.

There are over a quarter million California-licensed registered nurses. The following table provides licensing data for the past six years:

LICENSING DATA FOR REGISTERED NURSES	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Total Licensed	**256,483**	**260,113**	**264,273**	**268,623**	**276,074**	**286,845**
California	227,605	230,672	233,917	237,316	240,937	246,023
Out-of-State	28,878	29,441	30,356	31,307	35,137	40,822
Applications Received	17,544	19,340	20,378	22,372	27,551	32,368
Applications Denied	24	46	52	34	28	42
Licenses Issued	10,289	11,335	11,567	11,745	14,683	18,488
Renewals Issued	120,511	123,559	123,621	127,939	127,660	132,550
Statement of Issues Filed	14	27	35	27	27	28
Statement of Issues Withdrawn	1	0	0	2	3	4
Licenses Denied	5	5	9	8	2	7
Licenses Granted on Probation	6	15	18	21	26	19
Licenses Granted	1	0	0	3	0	0

The BRN issues temporary licenses and interim permits to eligible applicants. An interim permit allows a first time NCLEX-RN candidate to work under the direct supervision of a registered nurse pending the results of the examination.

Applicants applying for licensure by endorsement may apply for a temporary license. The BRN may issue a temporary license to practice nursing for a six-month period, thereby allowing the applicant to work as a registered nurse pending issuance of a permanent license. The temporary license can be re-issued twice, for a total of 18 months, if necessary.

LICENSING DATA FOR REGISTERED NURSES	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Temporary Licenses	2,394	4,221	4,703	5,538	8,199	9,139
Interim Permits	3,986	4,593	4,444	4,815	5,007	7,965

The increase in the number of temporary licenses issued in fiscal years 2000/01 and 2001/02 is reflective of registered nurses coming into California to accept temporary nursing assignments resulting from work stoppages and to provide temporary staffing due to regularly occurring nursing shortages.

The BRN also issues certificates for the advanced practice categories of clinical nurse specialist, certified nurse-midwife, nurse practitioner, and nurse anesthetist, and maintains a list of psychiatric/mental health nurses as directed in Health and Safety Code, Article 5, Section 1373(h)(2). Nurse practitioners and nurse-midwives have "furnishing authority" and the BRN issues the furnishing numbers. Certification of public health nurses was transferred from the Department of Health Services to the Board of Registered Nursing in 1992. The following table provides data for these specialty categories for the last six years.

CERTIFICATION CATEGORIES	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Clinical Nurse Specialist--Total			**1,080**	**1,347**	**1,491**	**1,617**
Certificates Issued *	**N/A**	**N/A**	1,080	268	163	148
Certificates Renewed			0	259	576	680
Nurse-Midwife (NM)--Total	**908**	**960**	**1,006**	**1,034**	**1,069**	**1,097**
Certificates Issued	87	74	58	58	58	43
Certificates Renewed	403	408	457	461	483	493
NM/Furnishing Number--Total	**337**	**404**	**449**	**488**	**510**	**561**
Number Issued	46	65	57	49	28	61
Number Renewed	124	157	175	197	224	236
Nurse Practitioner (NP)--Total	**7,928**	**8,510**	**9,259**	**9,785**	**10,450**	**11,320**
Certificates Issued **	768	763	889	876	830	847

CERTIFICATION CATEGORIES Cont.	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
NP Furnishing Number--Total	**4,180**	**4,819**	**5,421**	**6,008**	**6,600**	**7,222**
Certificates Issued	557	654	650	689	704	726
Certificates Renewed	1,562	1,898	2,183	2,378	2,671	2,937
Nurse Anesthetist --Total	**1,363**	**1,399**	**1,445**	**1,486**	**1,524**	**1,586**
Certificates Issued	90	103	101	112	97	127
Certificates Renewed	587	605	618	628	666	681
Psychiatric/Mental Health--Total	**424**	**435**	**434**	**425**	**420**	**420**
Certificates Issued	7	18	6	7	5	3
Public Health Nurses--Total	**39,387**	**40326**	**41,324**	**42,144**	**42,888**	**43,599**
Certificates Issued **	1,792	1,603	1,517	1,614	1,440	1,413

* Board certification of Clinical Nurse Specialists was authorized by statute effective 7/98.

** Nurse Practitioner and Public Health Nurse certificates do not require renewal.

BUDGET AND STAFF

CURRENT FEE SCHEDULE AND RANGE---The Board of Registered Nursing is a self-supporting, special fund agency that generates its revenues from licensing fees. The fees are set at the minimum level of the range established in statute. The registered nurse license and all specialty certificates, except nurse practitioner and public health nurse, are renewable biennially. The BRN's fees have remained at the same level for eleven years and there are no plans to increase fees. The primary source of revenues is renewal fees.

Fee Schedule	Current Fee	Statutory Limit
RN Application Fee (Exam)	$75	$150
RN Application Fee (Endorsement)	$50	$100
RN Renewal Fee	$75	$150
Interim Permit	$30	$50
Temporary RN License	$30	$50
Clinical Nurse Specialist (CNS)	$75	$150
CNS Renewal	$50	$100
Nurse-Midwife (NM)	$75	$150
NM Renewal	$50	$100
NM Furnishing Number	$50	$50
NM Furnishing Number Renewal	$30	$30
Nurse Practitioner (NP)	$75	$150
NP Furnishing Number	$50	$50
NP Furnishing Number Renewal	$30	$30
Nurse Anesthetist (NA)	$75	$150
NA Renewal	$50	$100
Public Health Nurse	$75	$150
Psychiatric/Mental Health Nurse	No Fee	

The application, certification, and renewal fees cover all administrative costs, as well as cost for the original license/certificate. An outside vendor administers the registered nurse examination and the applicant pays the vendor directly. There is no BRN-administered examination for licensure or certification.

REVENUE AND EXPENDITURE HISTORY---The BRN carefully monitors its revenues and expenditures to ensure fiscal stability. This fiscal constraint is reflected in the fact that all fee levels have remained constant at minimum statutory levels; no fee increases are planned or anticipated. The BRN's revenue has paralleled budget and expenditures from fiscal year 1996/97 through fiscal year 2001/02. The following tables provide a comparison of revenues and expenditures.

REVENUES	ACTUAL					PROJECTED	
	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02	FY 2002/03	FY 2003/04
Licensing Fees	$12,100,767	$12,412,265	$12,796,487	$13,379,833	$14,166,116	$14,000,735	$13,969,135
Fines & Penalties*	$196,905	$200,243	$209,613	$217,897	$227,531	$160,465	$160,465
General Fund Loan	0	0	0	0	0	-$12,000,000	0
Other (GF Return)	0	$592,920	0	$189,435	0	0	0
Interest	$550,993	$652,364	$869,945	$1,057,262	$698,506	$973,181	$283,750
TOTALS	**$12,848,665**	**$13,857,792**	**$13,876,045**	**$14,844,427**	**$15,092,153**	**$3,134,381**	**$14,413,350**
EXPENDITURES	**FY 1997/98**	**FY 1998/99**	**FY 1999/00**	**FY 2000/01**	**FY 2001/02**	**FY 2002/03**	**FY 2003/04**
Personnel Services	$4,375,860	$4,253,237	$4,475,858	$4,548,719	$4,970,475	$5,051,276	$5,051,276
Operating Expenses	$7,758,199	$8,138,135	$8,980,644	$9,372,703	$10,097,503	$11,871,724	$12,210,184
(-) Reimbursements*	-$701,770	-$777,001	-$955,933	-$1,055,534	-$1,143,759	0	0
Other (-) +	$754	$542	$135	$130	$319	0	0
(-) Distributed Costs	0	0	0	0	0	0	0
TOTALS	**$11,433,043**	**$11,614,913**	**$12,500,704**	**$12,866,018**	**$13,914,538**	**$16,923,000**	**$17,261,460**

* Includes only the penalty fee for delinquent renewals.
** Includes cost recovery and fines.

EXPENDITURES BY PROGRAM COMPONENT---During the past six years, the BRN spent over 70% of its budget on enforcement and diversion-related activities. This emphasis meets its primary objective of providing patient protection by removing unsafe registered nurses from the workplace or restricting practice.

To maintain its enforcement activities, the BRN submitted three enforcement-related Budget Change Proposals (BCPs) for fiscal year 2002/03. The BCPs are:

- A two-year limited term $1.6 million augmentation to fund the costs for the Office of Attorney General, Office of Administrative Hearings, and evidence and witness fees.

- A $471,000 increase in the fingerprint expense line item. This aligns reimbursements and expenditures for criminal history background checks.

- A one-time augmentation of $90,000 in the facility operation baseline to meet mandates for a secured area with restricted access to criminal offender records information (CORI) reports.

As previously indicated, the BRN has aggressively pursued utilization of Internet technology to enhance services. A BCP was submitted in fiscal year 2002/03 for a $132,000 augmentation in spending authority to pay for credit card conveyance fees for online payment transactions.

The Department of Finance and the Legislative Fiscal Committees have approved the four Budget Change Proposals.

Funds have been approved on a two-year, limited term basis for 2002/03 ($364,000) and 2003/04 ($354,000). The funds have been allocated as part of the Nurse Workforce Initiative and are for conducting three surveys related to the nursing shortage, developing an outreach brochure, and funding the Education and Nurse Workforce Advisory Committees.

The BRN strives to provide licensure and nursing program approval services on a timely basis. However, the BRN currently has seven vacancies in these program areas, and, even with overtime efforts, backlogs have developed in licensing new registered nurses and conducting school reviews, as well as other program areas. The BRN submitted a hiring freeze exemption for the vacancies, but was denied in July 2002.

EXPENDITURES BY PROGRAM COMPONENT	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02	Average Spent by Program
Enforcement	$9,021,145	$8,350,903	$7,463,304	$8,134,523	$8,387,777	$9,601,309	**66%**
Examination	$1,696,741	$1,442,071	$1,605,195	$1,777,773	$1,763,457	$1,823,478	**13%**
Licensing	$2,153,111	$1,837,359	$1,741,687	$1,799,329	$1,633,077	$1,848,466	**14%**
Diversion	*	*	$1,328,566	$1,367,262	$1,319,959	$1,347,636	**7%**
Administrative**							
TOTALS	**$12,870,997**	**$11,630,333**	**$12,138,752**	**$13,078,887**	**$13,104,270**	**$14,620,889**	

* Data not available; Diversion Program cost included in Enforcement Program.
** Costs of administering programs are incorporated in each component.

FUND CONDITION---The statutory reserve fund limit for the BRN is 24 months (B&P Code Section 128.5). The BRN has maintained a prudent reserve to meet future potential cost increases, address unforeseen contingencies, and bridge the gap between expenditures and unexpected declines in revenues. However, it is projected that the current fund reserve (13.8 months) will dramatically decline within fiscal year 2002/03 because the BRN made a $12 million loan to the General Fund to assist in offsetting the General Fund shortfall. The BRN will work in conjunction with the Department of Consumer Affairs Budget Office and the Department of Finance to closely monitor the BRN's fund condition. The BRN does not plan to raise fees unless there are no other alternatives to reconcile any deficit created by the loan to the General Fund.

ANALYSIS OF FUND CONDITION	FY 2000/01	FY 2001/02	FY 2002/03 Budget Year	FY 2003/04 (Projected)	FY 2004/05 (Projected)	FY 2005/06 (Projected)
Total Reserves, July 1	$15,608,457	$18,285,999	$19,463,614	$5,674,994	$2,826,884	$417,613
Total Rev. & Transfers	$15,301,262	$15,092,153	$3,134,380	$14,413,350	$15,197,418	$15,046,418
Total Resources	$30,909,719	$33,378,152	$22,597,994	$20,088,344	$18,024,302	$15,464,031
Total Expenditures	-$12,866,018	-$13,914,538	-$16,923,000	-$17,261,460	-$17,606,689	-$17,958,823
Reserve, June 30	$18,043,701	$19,463,614	$5,674,994	$2,826,884	$417,613	-$2,494,792
MONTHS IN RESERVE	**14.9**	**13.8**	**3.9**	**1.9**	**-0.3**	**-1.7**

LICENSURE REQUIREMENTS

EDUCATION, EXPERIENCE, AND EXAMINATION REQUIREMENTS

LICENSURE REQUIREMENTS The primary objective of the BRN's licensure requirements is to ensure consumer protection by determining that individuals possess the knowledge and qualifications necessary to competently and safely practice registered nursing. The licensure requirements for applicants are:

- Successful completion of specified registered nursing educational requirements.
- Passage of a national examination for registered nurse licensure (NCLEX-RN).
- Clearance through a background check for conviction of any crime or out-of-state license discipline that might make the applicant ineligible for licensure.

The educational requirements for registered nurse licensure are delineated in the Nursing Practice Act (B&P, Section 2736; CCR, Sections 1420-1429) and set a minimum number of units in specified areas. The areas include the art and science of nursing (both theory and clinical practice); communication; and related natural, behavioral, and social sciences. Content in cultural diversity is also required.

Applicants for licensure by endorsement must also submit verification of a clear, current, active registered nurse license from another state or U.S. territory. Neither licensure by examination nor endorsement requires experience other then clinical experience obtained during prelicensure education.

VALIDATION OF APPLICANT LICENSURE INFORMATION All applicants for licensure by examination must provide evidence, i.e., official school transcripts, of meeting the curriculum requirements. Starting in October 2001, U.S.-educated applicants for licensure by endorsement were no longer required to submit transcripts. These applicants have already passed the NCLEX-RN and have had their education validated by another state board of nursing. This, in conjunction with verification of a clear, current, active registered nurse license, documents the ability to practice registered nursing.

All applicants taking the examination for licensure in California must submit fingerprints for a Department of Justice (DOJ) criminal background check; endorsement applicants must submit two sets of fingerprints for both a DOJ and a Federal Bureau of Investigation (FBI) background check. Applicants must also report prior convictions, other than minor traffic violations, and any conviction or disciplinary action that occurs between the date the application was filed and the date of issuance of the California registered nurse license. DOJ automatically reports any subsequent convictions for applicants and licensees to the BRN. Endorsement applicants are also required to report any prior discipline against their registered nurse licenses in any other state or U.S. territory. Applicant information is validated through DOJ and FBI reports and direct verification from boards of nursing in other states and U.S. territories. The BRN can also access information regarding discipline of a registered nurse's license through the National Council's *Nursys* database.

RN LICENSURE EXAMINATION (NCLEX-RN) The examination used nationwide for state registered nursing licensure is the National Council Licensing Examination for Registered Nurses (NCLEX-RN). The examination is constructed to measure entry-level registered nursing skills, knowledge, and abilities. A multi-step development process, using job analysis data and the expertise of registered nurses in clinical practice and nursing education, results in an examination that is statistically reliable and valid, as well as psychometrically and legally defensible.

The examination is based on a job analysis of activities performed by newly licensed, entry-level registered nurses. Data for this job analysis is gathered every three years through a survey completed by a random sample of over 3,000 newly licensed registered nurses. The nationwide selection of participating registered nurse is stratified to include the state in which nursing education was obtained and the type of initial education, i.e. diploma, associate degree, or baccalaureate degree. The survey is conducted by the National Council of State Boards of Nursing (NCSBN) and provides the basis for the NCLEX-RN Test Plan.

The most recent registered nurse job analysis was conducted in 2002 and the final report should be released by NCSBN in January 2003. The current test plan, which is based on a 1999 job analysis, was approved by the NCSBN Delegate Assembly in August 2000 and became effective April 2001. The 2000 revision changes were made primarily to increase clarity and provide for implementation of a mouse interface and drop-down calculator enhancements.

In addition to the job analysis, the NCLEX-RN test construction process includes:

Item/Question Development---Registered nurse item writers, who are selected based on their clinical expertise, experience in writing test items, and geographic distribution, prepare the test items/questions.

Item/Question Review---Registered nurses, who are in clinical practice and work directly with registered nurses who have entered nursing practice within the past 12 months, review the items/questions. Each item/question is reviewed for content accuracy, currency, job-relatedness, and appropriateness for entry-level nursing competence. In addition, a panel of experts performs a sensitivity review of each question to eliminate cultural, gender, or stereotyping items/questions. California registered nurses serve as both item writers and reviewers.

BRN Review---Representatives from the California BRN (Board members and nursing education consultants) review actual and "extra items/questions" at least annually to assure that they meet the requirements of the Nursing Practice Act and other California government codes and regulations. The BRN reviewers also review the items/questions for content accuracy and appropriateness for entry-level nursing practice.

Passing Standard---The passing standard, or pass point, is established through a psychometrically sound, criterion–referenced process employing content experts. The pass point represents the minimum entry-level standard for safe nursing practice.

The result of the many steps involved in preparing the NCLEX-RN provides a statistically reliable and valid examination for determining initial licensure as a registered nurse.

NCLEX-RN PASSAGE RATES The California first-time NCLEX-RN passage rate is generally comparable to the national rate, e.g., 81.71% for California and 84.19% nationwide in 2000/01. However, the national passage rate has been consistently higher and the difference between the two rates has increased slightly on an annual basis. This increasing discrepancy, coupled with the BRN's concern about the increasing number of prelicensure nursing programs with an annual pass rate of 70% or less, resulted in the Board's establishment of the NCLEX-RN Task Force in February 1999. The goals of the Task Force were to:

- Identify factors that increased and decreased the NCLEX-RN pass rates for first-time takers.

- Describe factors that appear to improve the potential for graduates of nursing programs to pass the NCLEX-RN examination on the first attempt.

- Provide recommendations to the Board of Registered Nursing and California prelicensure nursing programs for potential use to improve the NCLEX-RN pass rate.

- Identify research questions for consideration by the NCSBN Research Committee.

The Task Force conducted surveys, literature searches, and student interviews. The California nursing program surveys, student interviews, and one published study identified significant student characteristics affecting their ability to pass the NCLEX-RN on the first attempt. The most consistently identified characteristics were students for whom English is a second language, who work 20 hours a week or more, and who have family responsibilities at home. Academic policies that permit students to withdraw from prerequisite science courses when they are failing so they can retake them multiple times was a significant academic policy identified by nursing program directors.

Additional factors identified were delay by graduates of five months or more between graduation and taking the NCLEX-RN and limited knowledge by nursing faculty about the current NCLEX-RN Test Plan. Significant factors affecting Community College nursing programs were the 1990 and 1993 changes in Title 5 regulations that eliminated prerequisite and co-requisite requirements for admission to Community Colleges' nursing programs. The inability to have supplemental selection criteria for admission to the nursing major adversely affected many associate degree nursing programs. Subsequent activities by the Chancellor's Office acknowledging the unique needs of nursing students may correct this.

The Task Force concluded that this multi-dimensional problem requires bold action if the maximum numbers of students are to graduate from prelicensure nursing programs, successfully pass the NCLEX-RN, and become licensed as registered nurses in California. Recommendations to improve the pass rates were made to the many groups involved in preparing registered nursing students, testing them, and licensing them. Task Force findings and recommendations are detailed in the *NCLEX-RN Task Force Report: The Problem And The Plan*.

The BRN has implemented several of the Task Force's recommendations. In April 2000, the BRN conducted a conference, "Navigating The Realities Of Nursing Education", for nursing program faculty and directors. Over 400 participants attended the conference. Ann Wendt, Ph.D., National Council NCLEX-RN Content Manager, gave a presentation on curriculum mapping and using the NCLEX-RN Test Plan as a road map. Marilyn Moats Kennedy focused her presentation on today's registered nursing students, whose learning needs, styles, and resources are different from previous generations. The BRN also arranged for Dr. Wendt to repeat the NCLEX-RN Test Plan presentation to an additional 110 nursing educators attending the annual Associate Degree Nursing Programs Association's faculty conference in April 2002. The BRN continues to monitor and intervene with nursing programs with annual NCLEX-RN pass rates below 70%. Attachment 3 is the BRN's procedure related to Registered Nursing Programs with low NCLEX scores.

Pass rates for registered nurses educated outside of the United States vary considerably depending on the quality of education in the country. The overall pass rate for international candidates in fiscal year 2000/01 was 30.3%.

July 01, 1996 – June 30, 2002 (First-Time Test Takers)

California & U.S. NCLEX-RN Pass Rate

	NATION-WIDE		CALIFORNIA ONLY	
YEARS	**TOTAL CANDIDATES**	**PASSAGE RATE**	**TOTAL CANDIDATES**	**PASSAGE RATE**
1996-1997	87,726	87.47%	5,805	87.18%
1997-1998	87,921	87.24%	5,375	86.05%
1998-1999	77,193	84.11%	5,075	83.74%
1999-2000	72,696	84.24%	5,167	82.41%
2000-2001	69,271	84.19%	4,952	81.70%
2001-2002	67,120	85.96%	5,018	84.38%

First time test takers do not include data for repeat candidates or exam candidates educated outside the United States or United States Territories.

APPLICATION PROCESSING TIME The application processing time has decreased by over 100 days in the last six years from 267 to 157 days. This reduction is due primarily to decreases in the "application to examination" phase of the process, i.e., from when the applicant is deemed eligible to take the examination to when the applicant takes the examination. This phase, which is determined by the applicant, has decreased from 181 to 107 days. Upon receipt of the BRN's eligibility for examination letter, the applicant has up to 365 days to self-schedule the examination. The decrease in time in applicants scheduling exams may be partially attributable to registered nursing programs advising new graduates to take the examination as soon as

possible after graduation. The recommendation is based on research that shows a higher success rate for early test takers compared with those who wait several months.

There was also a steady decrease in the "application to eligibility" phase of the application process until fiscal year 2001/02. Modifications in internal processes and staffing patterns contributed to the decrease. The increase in 2001/02 is a reflection of decrease in staff from the hiring freeze and it is anticipated that this phase will continue to increase.

The "examination to issuance" phase remained constant until FY 2001/02, when it decreased from 14 to 12 days. The decrease is due to technological improvements. Another slight decrease is anticipated in October 2002 when National Council's test vendor changes to NCS Pearson, which is providing services via the Internet.

AVERAGE DAYS TO RECEIVE LICENSE	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Application to Eligibility	72	48	53	42	33	39
Application to Examination	181	156	157	147	109	118
Examination to Issuance	14	14	14	14	14	12
Total Average Days	**267**	**218**	**224**	**203**	**156**	**169**

CONTINUING EDUCATION/COMPETENCY REQUIREMENTS---Initial entry into practice and continued competence measurements for registered and advanced practice nurses are essential to assure public safety and protection. The BRN is actively involved in measuring and evaluating individual competence at several points during a registered nurse's professional practice in California. These are:

- Initial entry into practice and licensure as a registered nurse.
- California BRN certification in a specialty category.
- Biennial license/certificate renewal.
- Re-entry into nursing practice after changing from inactive to active license status or renewing a lapsed license.
- Following Board disciplinary action or issuance of a citation or fine.

Mandatory continuing education (CE) is the primary method used to assure the continued competence of every active licentiate on an ongoing basis. Since 1978, the BRN has required registered nurses to complete a total of 30 contact hours of continuing education biennially to renew their licenses in the active status, which allows them to practice nursing. The primary route for completion of the hours is to take course(s) offered by one of the over 3,300 BRN-approved Continuing Education Providers (CEPs).

The BRN monitors both registered nurses and Continuing Education Providers for compliance with statutory and regulatory requirements. During the past five fiscal years, over 11,000 registered nurse-renewal applicants have been audited. Over 99% of audited registered nurses provided documentation of acceptable course content and continuing education contact hours. Reasons for not providing appropriate documentation range from attendance at a course that is not verified by a CEP, documents destroyed in an earthquake, fire or flood, or the registered nurse failed to retain the documents for four years as required by law. Those in noncompliance are either warned and re-audited after their next renewal cycle or are referred to the Enforcement Program. Registered nurses who have not met the continuing education requirements for license renewal are directed to stop practicing as a registered nurse until the continuing education requirements are met.

Continuing Education Providers' compliance with the statutes and regulations is monitored by regular review of continuing education course advertising distributed by CEPs. The major areas of noncompliance are: failure to state course cancellation and refund policies; and failure to use language required by regulation in their advertisement about BRN provider approval and the number of contact hours offered. When areas of noncompliance are noted, the CEP is notified in writing. Evidence of compliance must be submitted within 30 days. (Because of the unavailability of staff, provider audits have not been completed since January 2001. However, any complaints that are received are investigated.)

A major change in the CE Program began in 1996 when the BRN started issuing citations and fines to registered nurses who knowingly violate the continuing education requirements. As of June 30, 2002, thirty-two citations/fines were issued for violation of continuing education requirements. Serious violations are referred to the Attorney General's Office for disciplinary action.

The BRN also investigates complaints filed against CEPs and has authority to withdraw a CEP's provider number under specified circumstances. Fourteen complaints were received and investigated. The CEPs corrected areas of noncompliance and did not have to be referred to the Enforcement Program.

CATEGORY	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
RN Licensee Audits	1,980	2,589	3,594	2,518	2,841
Closed Compliance	1,985	2,466	2,902	2,086	2,260
Referred to Enforcement	25	7	12	14	10
CE Provider Audits	320	430	460	200	0
Closed Compliance	164	321	310	136	0
Referred to Enforcement	0	0	0	0	0
Provider Complaints	4	4	1	5	0
Referred to Enforcement	0	0	0	0	0

Continued competency is a national issue facing all professional healing arts licensing boards. In October 2000, BRN staff did an extensive review of the continued competence issue and initiatives. New approaches, such as re-testing and work performance evaluation, are being

considered. The BRN recognizes many of the suggested approaches are still in the pilot-testing phase and that further validation is clearly needed before any additional continued competence requirements are mandated. The BRN continues to monitor and analyze the proposed approaches on a regular basis.

Beyond the mandatory CE required for every registered nurse, other more global ways the BRN assures the continued competence of registered nurses in California include:

- Distribution of a *Nursing Practice Act with Regulations and Related Statutes* to all newly licensed California registered nurses. (Distribution was discontinued in spring 2001 due to budget constraints, but is projected to resume in fall 2002 if the budget permits.)

- Holding individual registered nurses accountable for continued competence.

- Citing and fining registered nurses for violations of the Nursing Practice Act.

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- Disciplining registered nurses failing to meet the standards of safe, competent performance.

- Monitoring and limiting the practice of registered nurses through probation, suspension, revocation, or other disciplinary measures deemed appropriate.

- Informing the public of disciplinary action against the registered nurse's license via the BRN's newsletter, *The BRN Report.*

- Providing ongoing communication of competency standards to consumers, registered nurses, employers, educators, and other regulators via the BRN Web site, newsletter, advisory statements, correspondence, and public/professional presentations

- Participating in collaborative activities with registered nurses, employers, educators, consumers, nursing organizations and other regulatory agencies to ensure that established competency standards remain current and evidence based

- Utilizing National Council's occupational job analyses to assure competency standards remain current and needed regulatory changes are timely

- Consulting with the Department of Health Services, via the DHS academy training program, so nursing facility evaluators and supervisors have a clear understanding of nursing scopes of practice and standards of competent performance.

All of the BRN's continued competence actions are designed to protect the public safety and assure safe, effective, sensitive, appropriate care and health promotion for California consumers and society.

COMITY/RECIPROCITY WITH OTHER STATES ---Applicants who are already licensed in another state or U.S. territory are eligible for licensure by endorsement if they have passed

the national licensing examination. These applicants must submit proof of a valid, clear, registered nurse license and be fingerprinted. They are eligible for a temporary California registered nurse license upon proof of a valid registered nurse license while awaiting results of the Department of Justice and FBI fingerprint reports. To facilitate licensure by endorsement, the requirement that U.S.-educated applicants submit transcripts to document their nursing education was eliminated.

The BRN has eliminated barriers for international registered nurses seeking California licensure as demonstrated by the fact that approximately 40% of the international applicants seeking licensure in the U.S. come to California. Unlike most states, California does not require the additional step of completing the Commission of Graduates of Foreign Nursing Schools (CGFNS) examination. The CGFNS examination is designed to be a predictor of whether an applicant will pass the national licensing examination.

CULTURAL COMPETENCY---The BRN recognizes the importance of a nursing workforce that is culturally competent and representative of the residents of California. Following is a summary of strategies utilized to achieve these ends:

- Cultural diversity is required curriculum content for prelicensure nursing programs and is evaluated as part of the BRN school approval process. Input on ways to strengthen the cultural diversity component in prelicensure nursing programs will be obtained from the BRN Education Advisory Committee and the Society of Transcultural Nursing.

- The BRN RN survey captures data related to ethnicity and geographical distribution of registered nurses.

- In concert with the DCA recommendation, the BRN Licensing Program Manager has been designated to work with international medical graduates (IMGs) and programs facilitating IMGs re-entry into the healthcare delivery system. The Manager met with Welcome Back Program staff and explained the process and requirements for registered nurse licensure in California. Additionally, a Supervising Nursing Education Consultant serves on a CGFNS' advisory committee.

- Registered nurses pay a $5.00 assessment with their license renewal fees to support a scholarship and loan repayment program. The program's focus is to increase the number of registered nurses working in medically underserved areas and to increase the number of registered nurses from underrepresented ethnic groups. The Health Professions Education Foundation (HPEF), a non-profit organization, administers the program and a BRN staff member serves on the Foundation's Nurse Advisory Committee.

- Staff annually review the Office of Statewide Health Planning and Development's Health Professions Career Opportunity Program request for proposals. The program works to increase the number of economically/educationally disadvantaged students preparing for and receiving health profession education, including nursing.

CERTIFICATION REQUIREMENTS

CERTIFICATION REQUIREMENTS The primary objective of certification requirements is to ensure consumer protection by determining that registered nurses possess the knowledge and qualifications necessary to competently practice in the specialty category.

The BRN certifies public health nurses and advanced practice nurses. Advanced practice nurses include nurse practitioners, nurse-midwives, clinical nurse specialists, and nurse anesthetists. Pursuant to the Insurance Code, the BRN also maintains a listing of psychiatric/mental health nurses. In each of these categories, the individual must first have a California registered nurse license before obtaining the certificate. Public health nurses, nurse practitioners, and nurse-midwives, whose fingerprint clearances are still pending, may receive temporary permits to use the titles for up to six months. Discussion of the certification requirements for each of these specialty categories follows; only those elements that differ from the basic license requirements will be mentioned.

Public Health Nurse---Public health nurses are an integral part of the public health community and provide direct patient care as well as services related to maintaining public/community's health. To receive a PHN certificate, the registered nurse applicant must have a baccalaureate or higher degree in nursing from a school accredited by the National League for Nursing (NLN), Commission on Collegiate Nursing Education (CCNE), or other Board-approved accrediting organization.

Equivalency routes are provided for individuals whose baccalaureate degree in nursing is from a non-NLN or CCNE accredited school and for those who have a baccalaureate degree in another field.

Nurse Practitioner---Nurse practitioners are registered nurses who possess additional preparation and skills in physical diagnosis, psychosocial assessment, and management of health and illness needs in primary healthcare (CCR, Section 1480). Certification can be obtained based on successful completion of a Board-approved nurse practitioner program or certification by a Board-approved state or national certifying organization. Nurse practitioners in California may also separately apply for a nurse practitioner furnishing number, enabling the nurse practitioner to write a medication order for a pharmacy to fill and thereby furnish a drug to a patient. To obtain a furnishing number, the nurse practitioner must satisfactorily complete at least six months of physician-supervised experience in the furnishing of drugs or devices, preceded by an advanced pharmacology course.

The BRN provides an equivalency route for certification of registered nurses who have not completed a nurse practitioner program that meets BRN standards. The applicant must meet the same educational standards (course content and clinical experience) as graduates of approved programs. In addition, these applicants must submit verification (by a physician and a nurse practitioner) of clinical experience and competency in the provision of primary care as well as course descriptions and curriculum information.

Nurse-Midwife---Nurse-midwives are registered nurses who, under the supervision of a licensed physician and surgeon, attend cases of normal childbirth and provide prenatal,

intrapartum and postpartum care, including family planning care, for the mother and immediate care for the newborn (B&P, Section 2746.5).

Nurse-midwife certificates are issued to applicants who have completed a Board-approved nurse-midwifery program or are certified by a Board-approved certifying organization. An equivalency route is provided for graduates of non-Board-approved midwifery programs. These applicants must provide evidence that deficiencies have been corrected in a Board-approved nurse-midwifery program. Nurse-midwives may also obtain a furnishing number, meeting the same standards and requirements as nurse practitioners.

Nurse Anesthetist---Nurse anesthetists are registered nurses who provide anesthesia services at the direction of a physician, dentist, or podiatrist (B&P, Sections 2826 & 2827). To be issued a Board Nurse Anesthetist certificate, the applicant must provide evidence of certification by the Council on Accreditation of Nurse Anesthesia Education Programs and Schools. The Council has developed standards for certification as well as core competencies for nurse anesthetists, which are used nationally as well as by the California BRN. To satisfy these national standards, the applicant must have graduated from a nationally approved program in nurse anesthesia and pass a national certifying examination. Clinical recency is required for initial certification in California. For individuals endorsing from another state, evidence of current certification or re-certification by the National Council is required. There is no equivalency method for certification as a nurse anesthetist. (The national standards for nurse anesthetists have been in place since 1945; an equivalency route was deemed unnecessary.)

Psychiatric/Mental Health Nurse---Pursuant to the Insurance Code Section 10176, the BRN maintains a listing of registered nurses who possess a master's degree in psychiatric/mental health nursing plus two years of supervised experience providing services as a psychiatric/mental health nurse and who have applied to the BRN to be listed. This voluntary listing enables the certificate holder to receive direct reimbursement from insurance carriers for counseling services. The BRN accepts American Nurses Credentialing Center certification as a clinical specialist in psychiatric/mental health nursing for placement on the list because the requirements for national certification are the same as the requirements in the Insurance Code. Legislative acknowledgment of the psychiatric/mental health nurse function occurred in 1992 (AB 3035) when psychiatric/mental health nurses were added to the definition of psychotherapist in Health and Safety Code Section 1010, regarding patient-psychotherapist evidentiary privilege.

NURSING PROGRAMS

BOARD APPROVAL OF NURSING PROGRAMS Approval of prelicensure nursing programs is an integral component of the BRN's enforcement activities and is essential for effective public protection. The purpose of approval is to ensure the program's compliance with statutory and regulatory requirements. Prelicensure nursing programs must be approved by the Board. Approval of advanced practice nursing (i.e., nurse practitioner and nurse-midwifery) programs is voluntary and at the request of the program. Board approval of advanced practice programs is advantageous to program graduates because it facilitates their obtaining BRN certification as

a nurse practitioner or nurse-midwife. Currently, there are ninety-eight approved prelicensure nursing programs and thirty approved advanced practice nursing programs, as follows:

Prelicensure Programs

- 71 associate degree (ADN)
- 22 baccalaureate degree programs (BSN)
- 5 entry-level master's degree programs (ELM), 3 of which are at nursing schools that have a Board-approved baccalaureate program

Advanced Practice Nursing Programs

- 25 nurse practitioner programs
- 5 nurse-midwifery programs

APPROVAL PROCESS Each approved nursing program, prelicensure and advanced practice, is reviewed every five years. Although the standards for review are different, the same process is used for both. When a school has both a prelicensure and advanced practice program, the reviews are scheduled concurrently. The approval process requires writing of a self-study by the program and an on-site review by one or two nursing education consultants (NECs), depending on the size and complexity of the program. Both the program self-study and the review by the NECs are directly correlated to statutes and regulations contained within the Nursing Practice Act. The on-site review of the nursing program includes meetings with administrators, students, and healthcare agency personnel to ensure statutory/regulatory compliance and consumer (student) satisfaction.

Prelicensure and Advanced Practice Nursing Programs Reviews 1996 - 2001

		Prelicensure Programs			Advanced Practice	
Calendar Year	**Total number of programs reviewed***	**ADN Programs**	**BSN Programs**	**ELM Programs**	**NP Programs**	**NM Programs**
1996	30	18	3	0	8	1
1997	21	16	1	0	2	2
1998	26	12	6	2	6	0
1999	25	15	5	0	5	0
2000	32	12	8	1	9	2
2001	18	15	1	0	1	1

Table shows total number of programs reviewed by the Board's Education Licensing Committee during calendar years 1996 through 2001.

The Board grants continued approval to the program if it is in compliance with all applicable rules and regulations. When programs are found to be in noncompliance, the programs are placed on deferred action and are allowed a specified time to correct area(s) of noncompliance.

NECs work closely with program directors to assist with their efforts to be granted continued approval. When a program is unable to correct the area(s) of noncompliance, or demonstrates a lack of progress toward correcting the noncompliance, the program is placed on warning status. Being placed on warning status is a rare and serious Board action in that the Board is warning the school of its intent to close the nursing program. During the last six-year period, two prelicensure and one advanced practice nursing program were placed on warning status. Each of the programs responded quickly to correct identified areas of noncompliance.

During the last six years, the Board reviewed 115 prelicensure programs; 36 (31%) of the programs were in noncompliance. The primary area of noncompliance was adequacy of resources. Of the 37 advanced practice nursing programs reviewed, 9 (24%) were in noncompliance. Eight of the nine advanced practice programs in noncompliance were nurse practitioner programs. The primary area of noncompliance related to granting credit to students for previous education and experience. The following table provides more details about program compliance.

Prelicensure and Advanced Practice Nursing Programs in Noncompliance

Calendar Year	ADN	BSN	ELM	Prelic. TOTAL	NP	NM	APN TOTAL	TOTAL
1996	9/18	2/3	N/A	**11/21**	6/8	0/1	**6/9**	**17/30**
1997	5/16	0/1	N/A	**5/17**	0/2	0/2	**0/4**	**5/21**
1998	4/12	0/6	0/2	**4/20**	1/5	0/1	**1/6**	**5/26**
1999	5/15	2/5	N/A	**7/20**	1/5	N/A	**1/5**	**8/25**
2000	3/12	1/8	0/1	**4/21**	0/9	0/2	**0/11**	**4/32**
2001	5/15	0/1	N/A	**5/16**	0/1	1/1	**1/2**	**6/18**
TOTALS	**31/88**	**5/24**	**0/3**	**36/115**	**8/30**	**1/7**	**9/37**	**45/152**

The numerator is the number of programs with one or more areas of noncompliance. The denominator is the total of number of programs reviewed.

NURSING PROGRAM ACCREDITATION In addition to Board approval, many nursing programs undergo a voluntary accreditation by the National League for Nursing (NLN), the Commission on Collegiate Nursing Education (CCNE), or both. The BRN has reviewed the processes, standards, and outcomes of these accreditation surveys and has found significant differences from those of the BRN. Therefore, these voluntary external surveys do not assure compliance with California's statutory requirements.

NEW NURSING PROGRAMS The BRN supports efforts by colleges and private organizations to start new nursing programs. The process for the initial Board approval is outlined in the BRN's "Guidelines for Proposed New Programs Preparing for Registered Nurse Licensure." The guidelines are sent to an agency once it has submitted a "letter of intent" to start a program. Of the agencies that submitted a letter of intent, six have pursued the approval process. Three of these have received Board-approval and started admitting students. The remaining three are in the process of being approved.

Two barriers that agencies may face in implementing a nursing program are cost and the statutory requirement that the program either be an institution of higher education or be affiliated with one. Another potential barrier exists for proprietary agencies. Specifically, proprietary agencies that do not meet specified exemptions must be approved by the Bureau for Private Postsecondary and Vocational Education (BPPVE). Consequently, these agencies are regulated by two governmental agencies and must conform to the requirements of both. The BRN and BPPVE entered into an agreement in 1995 that addresses the dual regulatory responsibilities and sets out approval procedures. The agreement was revised in 2001. This collaborative effort benefits both the regulatory and proprietary agencies. The BRN has also met with representatives of proprietary agencies to determine if there are other strategies that the BRN can implement to facilitate the approval process.

COLLABORATIVE EFFORTS Strong working relationships with directors of nursing programs and the community are maintained to assess educational trends and to uphold educational standards. Examples of these collaborative activities are the NCLEX Task Force and the Advanced Practice Advisory Committee.

Listed below are additional BRN activities that were carried out during years 1996 to 2002 to assure continued compliance with Board rules and regulations and to ensure public safety:

Databases of Nursing Programs---The BRN developed and maintains databases for tracking results of program's NCLEX-RN pass rate and noncompliance findings identified on approval visits. The NECs monitor the data and work cooperatively with nursing programs towards program improvement.

New Directors Orientation and Meeting---Each fall, the BRN conducts a meeting to orient newly appointed nursing program directors to the Nursing Practice Act rules and regulations related to prelicensure programs. Also in the fall, the BRN holds a meeting with nursing program directors to update them on any changes in Board policies affecting nursing education and licensure. The directors are also afforded an opportunity to discuss education/licensing issues that they have identified with members of the Education/Licensing Committee.

Educational Conferences---The BRN periodically conducts educational conferences for nursing program faculty and other registered nurses. An educational conference was held for a group of 650 advanced practice nurses on February 19, 1999. This successful conference addressed the scope of practice of advanced practice nurses and new legislation affecting their practice. A faculty conference was held on April 26, 2002, which was attended by approximately 400 prelicensure nursing faculty. The conference focused on the NCLEX-RN and the opportunities and challenges of teaching today's nursing students.

Consumer Education---NECs consistently present information regarding the BRN and the Nursing Practice Act to students and to faculty at nursing schools, to nursing staff in a variety of clinical settings, and professional organizations throughout California. Additionally, NECs attend meetings on behalf of the Board at various community and professional organizations.

ENFORCEMENT ACTIVITIES

ENFORCEMENT PROGRAM OVERVIEW The purpose of the BRN Enforcement Program is to protect consumers by disciplining licensees who violate the Nursing Practice Act, monitoring registered nurses' practice while on probation to ensure safe patient care, denying licenses to applicants who are unsafe to practice, and seeking prosecution for the unlicensed practice of registered nursing. The BRN places high priority on protecting the public through an effective Enforcement Program. This is evidenced by the expenditure of over 70% of the BRN budget on enforcement-related activities; increasing number of complaints that are investigated; number of cases referred to the Attorney General's Office; and disciplinary actions imposed. Additionally, the Enforcement Program has implemented operational and organizational changes and has worked with both the AG's Office and Division of Investigation to increase the effectiveness and efficiency of the Program. The operational and organizational changes are described in Section 1 of this report; activities and involvement with the AG's Office and DOI are summarized in Attachment 4.

Sources of Complaints---Most complaints to the Enforcement Program are from the healthcare industry. These are complaints received from licensees, directors of nursing, and other employers of registered nurses in hospitals, skilled nursing facilities, home health agencies, clinics, and physicians' offices. These also include complaints from nurses' registries or temporary nursing services providing nurses to health facilities. The Department of Health Services routinely refers nursing practice violations to the BRN when they are detected during its surveys and investigations.

Unique Reporting Requirements---There is no mandatory reporting required of registered nurses or other healthcare practitioners against registered nurses. Nursing homes participating in the Medicare/Medi-Cal Programs are required to report resident abuse and neglect to the BRN. Under B&P Code Section 800, settlement or arbitration awards exceeding $3,000 must be reported to the BRN if related to death or personal injury due to a registered nurse's negligence, error, or omission in practice.

Current Problems for Investigations---The problems that routinely arise in the investigative process pertain to obtaining consents for release of medical records; accessing personnel records; interviewing the subject of the complaint and witnesses; and obtaining other relevant records regarding an incident from the healthcare facility. Due to case law and other privacy provisions, these restrictions are becoming an increasing problem.

Largest Number of Complaints Filed (by Type)---Starting in fiscal year 1997/98, drug related offenses and other violations were separated from the "Personal Conduct" category, thereby enabling the BRN to capture better data related to complaints. During the last six years, the largest number of complaints was for unprofessional conduct and substance abuse/drug-related offenses.

Types of Cases Stipulated for Settlement---Virtually every case type may result in a stipulated agreement or settlement. For those case types where there is little or no mitigation or rehabilitation, or where there is imminent danger to the public, the BRN can often obtain a settlement for revocation or surrender of license. For those cases where there is satisfactory

evidence of mitigation and rehabilitation, and where there is no imminent danger, there often is a stipulation where revocation is stayed and the registered nurse is placed on probation. The probation may or may not include mandatory suspension of nursing practice for a specified period. In the least serious cases, a stipulated public reprimand may be obtained.

The percentage of cases settled by stipulated agreement has increased from 33% in fiscal year 1996/97 to 47% in 2000/01. The recent increase is based largely on BRN process improvements designed to facilitate the stipulation process. Advantages to the public for stipulated agreements include: faster disciplinary intervention by avoiding the delay for an administrative hearing; assurance that discipline terms are tailored to the case; lower cost than the hearing process; and avoiding uncertain outcomes of hearings such as varying administrative law judges' decisions, loss of witnesses, or appeals.

ENFORCEMENT DATA		FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Complaints Received (Source)	**Total:**	**1,525**	**1,675**	**1,552**	**1,514**	**1,610**	**1,541**
Public		273	330	265	252	240	249
Licensee/Professional Groups		456	419	437	504	421	492
Government Agencies		258	256	168	155	100	135
B & P Code, Section 800		15	23	35	7	19	27
Other/Internal		523	647	647	596	830	638
Complaints Filed (by type)	**Total:**	**1,525**	**1,675**	**1,552**	**1,514**	**1,610**	**1,541**
Competence/Negligence		222	254	248	235	216	213
Unprofessional Conduct		529	517	367	360	426	384
Fraud		24	69	24	31	60	18
Unlicensed/Unregistered Activity		189	108	69	69	55	56
Personal Conduct *		397	12	18	32	8	7
Criminal Charges/Convictions		n/a	208	214	160	198	252
Substance Abuse/Drug Related Offenses		35	372	509	549	531	339
Other		129	135	103	78	116	93
Complaints Closed w/o investigation	**Total:**	**485**	**515**	**505**	**464**	**412**	**405**
Investigations Commenced	**Total:**	**930**	**1255**	**1215**	**1099**	**1329**	**1250**
Compliance Actions	**Total:**	**380**	**394**	**302**	**397**	**360**	**410**
ISOs Issued		2	1	0	0	0	0
Citations and Fines		1	36	8	43	36	15
Order of Abatement		1	21	6	21	17	9
Public Letter of Reprimand		0	0	0	0	1	9
Cease & Desist/Warning **		150	51	3	0	0	0
Referred for Diversion				239	261	221	265
Compel Examination		9	19	8	19	12	17
Referred for Criminal Action	**Total:**	**31**	**18**	**20**	**19**	**18**	**24**
Referred to AG's Office	**Total:**	**214**	**227**	**280**	**312**	**320**	**260**

ENFORCEMENT DATA Cont.		FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Accusation Activity	**Total:**	**164**	**198**	**161**	**236**	**336**	**218**
Accusations Filed		130	160	131	204	274	175
Accusations Withdrawn		8	9	2	3	11	17
Accusations Dismissed		6	3	11	6	10	4
Accusations Declined by AG	**Total:**	20	26	17	23	41	22
Stipulated Settlements (Licensees)		**56**	**62**	**62**	**65**	**98**	**115**
Disciplinary Actions		170	160	147	159	207	244
Revocation		88	68	60	68	76	88
Voluntary Surrender		22	17	17	19	31	14
Suspension Only		1	0	1	2	0	1
Probation with Suspension		13	10	3	0	2	0
Probation		40	50	48	50	73	122
Probationary License Issued		6	15	18	20	25	19
Probation Violations	Total:	3	3	2	2	14	7
Suspension or Probation		1	0	0	0	4	2
Revocation or Surrender		2	3	2	2	10	5

* New codes added in FY 97/98 resulting in decreased number of personal conduct coded complaints.
** Alternative methods used in lieu of cease and desist letters.

Complaints Referred for Investigation---Approximately 75% of complaints are investigated. During the last six fiscal years, 9,417 complaints were received and 7,078 complaints were investigated. Although the number of complaints referred for investigation has varied each year, it has never dropped below 61% and has gone as high as 83% of the cases received that year. Complaints are referred for either formal or informal investigation. Formal investigations are conducted by sworn peace officers employed by the Department of Consumer Affairs, Division of Investigation. BRN staff conducts the informal investigations. Enforcement Program staff investigate certain criminal conviction complaints for licensees and applicants for licensure or certification. Nursing education consultants also investigate cases, primarily those involving nursing practice and education. It should also be noted that some complaints, such as those involving convictions of serious crimes substantially related to the practice of nursing or including a comprehensive investigation by another regulatory agency, may not require referral for investigation before being transmitted to the Attorney General's Office. Recent changes in BRN review procedures may increase the number of cases referred directly to the AG's Office.

Complaints Referred for Accusation & Disciplinary Actions---The statistics detailed in the table below demonstrate the BRN's commitment to consumer protection via the disciplinary process. The number of cases transmitted to the AG's Office increased annually until last fiscal year, rising from 214 in fiscal year 1996/97 to 320 in 2000/01. With the exception of fiscal year 1998/99, there was a comparable increase in the number of accusations filed, i.e., from 130 in 1996/97 to 274 in 2000/01. Both the number of transmitted cases (260) and accusations filed (175) decreased in fiscal year 2001/02 due to a budgetary shortfall; a Budget Change Proposal was submitted to rectify the situation. Approximately 12% of cases are transmitted to

the AG's Office and approximately 70% of transmitted cases result in accusations. The percentage of accusations filed reflects the quality of investigations and evidence substantiating the violations. Disciplinary actions have also increased from 147 in 1998/99 to 244 in 2001/02.

NUMBER AND PERCENTAGE OF COMPLAINTS DISMISSED, REFERRED FOR INVESTIGATION, TO ACCUSATION AND FOR DISCIPLINARY ACTION							
COMPLAINTS RECEIVED	**FY 1996/97**	**FY 1997/98**	**FY 1998/99**	**FY 1999/00**	**FY 2000/01**	**FY 2001/02**	**TOTAL**
	1,525	**1,675**	**1,552**	**1,514**	**1,610**	**1,541**	**9,417**
Complaints Closed	485	515	505	464	412	405	**2,786**
Referred for Investigation Formal (DOI) Informal (BRN staff)	930 467 463	1,225 775 480	1,215 735 480	1,099 670 429	1,329 761 568	1,250 744 506	**7,078** **4,152** **2,926**
Percent cases investigated*	61%	75%	78%	73%	83%	81%	**75%**
Accusation Filed	130	160	131	204	274	175	**1,074**
Disciplinary Action	170	160	147	159	207	244	**1,097**

*Complaints received in one fiscal year may not be investigated until the next; therefore, the statistics includes complaints received prior to fiscal year 1996/97 and complaints received in 2001/02 may not be investigated until fiscal year 2002/03.

CASE AGING DATA The average number of days from receipt of complaint to final disposition of the case ranged from 1,073 days in fiscal year 1997/98 to 1,237 days in 1998/99 and was 1,191 in 2001/02. Of the four components determining the number of days to process and prosecute a case, the BRN controls only one, i.e., complaint processing. As a result of procedural changes and staffing patterns, the processing time has been decreased from 275 days in 1998/99 to 157 in 2001/02. Additional strategies to decrease this component of the disciplinary process are being explored.

The most dramatic and persistent increase in time frames occurred in the investigation phase, which rose from 385 days in fiscal year 1996/97 to 514 days in 2001/02. Factors that influence the length of this phase are the complexity and number of cases, availability of Division of Investigation investigators to conduct the investigations, and the method used for tracking cases. Until recently, the case tracking method artificially inflated the case aging date. Specifically, if a case was sent back from the Diversion Program because the registered nurse was terminated from the Program, the original date of the complaint, and not the date the case was returned, was used in the tracking system. The original complaint may have been received two or three years prior to being returned from the Diversion Program. Staff has developed a method to log cases out while the registered nurse is in the Diversion Program as of 2002/03.

Both the pre- and post-accusation phases have decreased slightly since 1999/00. The pre-accusation phase was 224 days in 1999/00 and 206 in 2001/02; the post-accusation phase was 349 in 1999/00 and 314 in 2001/02. The processing times at the AG's Office should improve in 2002/03 due to approval of enforcement funding to address the backlog at the AG's Office.

AVERAGE DAYS TO PROCESS COMPLAINTS, INVESTIGATE AND PROSECUTE CASES						
	FY 1996/98	**FY 1997/98**	**FY 1998/99**	**FY 1999/00**	**FY 2000/01**	**FY 2001/02**
Complaint Processing	148	204	275	170	162	157
Investigations	385	377	491	465	489	514
Pre-Accusation*	335	202	205	224	191	206
Post-Accusation**	238	287	396	349	347	314
TOTAL AVERAGE DAYS* **	**1,106**	**1,073**	**1,237**	**1,208**	**1,189**	**1,191**

* From completed investigation to formal charges being filed.
** From formal charges filed to conclusion of disciplinary case.
*** From date complaint received to date of final disposition of disciplinary case.

Time Frames for Closing Investigations and AG Cases---During fiscal years 1996/97 through 2001/02, approximately half the investigations were closed within one year and about 85% within two years. This trend appears to have begun during the last review, in fiscal year 1994/95. With the exception of fiscal year 2001/02, there has been a steady increase in the number of cases closed within two years, i.e., 139 in 1996/97 to 344 in 2000/01 and then 314 in 2001/02.

Since the last report, there has been an increase in the number of AG cases closed and a decrease in the time to close the cases. During fiscal years 1996/97 through 2001/02, the average number of AG cases closed was 235. This compares to 223 for the previous report, covering fiscal years 1992/93 through 1995/96. The percentage of cases taking 2 to 4+ years was 21.4% during fiscal years 1996/97 through 2001/02, and 28% for the previous report. In spite of the increased number of cases closed and decrease in time to closure, there was a steady increase in the number of pending cases, i.e., 318 in 1998/99 to 512 in 2000/01. The pending cases were reduced to 464 in 2001/02 and this number is anticipated to decrease in the coming fiscal years because of budgetary augmentations.

INVESTIGATIONS CLOSED WITHIN:	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02	TOTAL	AVERAGE % CASES CLOSED
90 Days	10	27	24	30	42	64	197	5.2%
180 Days	47	62	64	86	76	72	407	10.7%
1 Year	137	174	198	249	219	193	1,170	30.6%
2 Years	139	166	242	311	344	314	1,516	39.7%
3 Years	21	20	45	65	69	112	332	8.7%
Over 3 Years	9	12	38	27	45	65	157	5.1%
Total Cases Closed	363	461	611	768	795	820	3,779	
AG CASES CLOSED WITHIN:	**FY 1996/97**	**FY 1997/98**	**FY 1998/99**	**FY 1999/00**	**FY 2000/01**	**FY 2001/02**	**TOTAL**	**AVERAGE % CASES CLOSED**
1 Year	73	85	55	90	96	90	479	31.7%
2 Years	98	91	93	87	157	171	631	45.1%
3 Years	34	26	32	22	38	69	182	14.3%
4 Years	8	11	8	9	8	23	53	4.3%
Over 4 Years	9	9	13	17	8	14	67	4.5%
Total Cases Closed	222	222	201	225	307	367	1,412	
Disciplinary Cases Pending	**212**	**397**	**318**	**411**	**512**	**464**	**N/A**	

CITE AND FINE PROGRAM The BRN Cite and Fine Program regulations became effective August 1996 and the Program was implemented in January 1997. Since the inception of the Program, 139 citations and fines have been issued. Citations, fines, and orders of abatement are used for relatively minor violations, which do not warrant revocation or probation. There are currently two ranges of fines: $100-$2,500 for minor or technical violations, and $1,000-$2,500 for the more serious violations. Examples of violations amenable to resolution through cite and fine include practicing as a registered nurse with an expired license, holding out in an advanced nursing practice specialty area without the appropriate BRN certification, and providing false and/or incorrect continuing education information.

The BRN also has authority to cite, fine, and issue an order of abatement for the unlicensed practice of registered nursing. While criminal charges may also be filed in some instances for such unlicensed practice, district attorneys do not generally pursue these cases unless they are egregious. One of the benefits of the Cite and Fine Program is the ability to penalize a person for the unlicensed practice of registered nursing.

Since the implementation of the Cite and Fine Program in 1997, the BRN has had the opportunity to reevaluate the regulations and identify changes to enhance the effectiveness and efficiency of the Program. The Board has promulgated regulations updating the cite and fine regulations, focusing on the violations and fines sections and also the contested citations section. These changes will ensure consistency in the issuance of fines for the individual violations and simplify the appeal process.

CITATIONS AND FINES	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Total Citations	1	36	8	43	36	15
Total Citations With Fines	1	35	7	43	36	13
Amount Assessed	$1,000	$21,700	$9,100	$89,500	$50,500	$20,250
Reduced, Withdrawn, Dismissed	0	9	2	21	5	1
Amount Collected	**$1,000**	**$12,800**	**$9,350**	**$23,850**	**$28,650**	**$4,400**
Order of Abatement Issued	1	21	6	21	17	9

DIVERSION PROGRAM

The purpose of the BRN Diversion Program is twofold: first, to protect patients by immediately removing the registered nurse impaired by chemical dependency or mental illness from the work place; secondly, to provide a program of rehabilitation to prevent future problems, and to closely monitor the registered nurse's recovery as he or she returns to the workforce to ensure patient safety.

The Diversion Program has proven to be an effective method of intervening in cases in which registered nurses are impaired by drugs, alcohol, or mental illness. The Diversion Program is a voluntary and confidential program that provides public protection while also enabling the registered nurse to focus on recovery. As an alternative to the more lengthy and costly disciplinary process, the Diversion Program allows immediate intervention and removal from practice.

Nearly 900 registered nurses have successfully completed the program, resulting in the return of safe, rehabilitated nurses to the workforce. Several factors contribute to the success of the program including:

- Early and immediate intervention, in lieu of the lengthier time involved in disciplinary cases.

- Use of strict eligibility criteria to ensure only appropriate applicants are admitted to the program. Eligibility criteria include: no patient harm, no sales of drugs, no sex offenders, no prior discipline for the same type of offense, and no prior termination from a diversion program.

- Prohibiting the registered nurse from resuming practice until deemed safe to practice by a panel of experts.

- Development of an individualized rehabilitation plan that becomes a contract between the participant and the Diversion Program. The plan is developed by a Diversion Evaluation Committee (DEC), which is comprised of experts in the field of chemical dependency and mental illness.

- Close monitoring of participants for compliance with their rehabilitation plan.

- Requirement to have a worksite monitor prior to job approval.

- Participants' involvement in Nurse Support Groups.

- Stringent criteria for determining successful completion. To successfully complete the Diversion Program, the participant must demonstrate a change in lifestyle that supports continuing recovery and have a minimum of 24 consecutive months of clean body-fluid tests. A participant with a history of mental illness must demonstrate the ability to identify the symptoms or triggers of the disease and be able to take immediate action to prevent an escalation of the disease.

One measure of a diversion program's success is the number of successful graduates. Another indicator is the relapse or recidivism rate. Because the files of registered nurses are purged upon successful completion of the Program and the graduates are not tracked, an accurate recidivism rate cannot be determined. However, limited data is available based on "self-reporting" of prior participation by applicants to the Diversion Program. Since the Program began in 1985, there are 40 known instances of relapse or a 4.9% recidivism rate.

To strengthen the consumer protection component of the Program, the authorizing statute related to confidentiality of participant records was amended in 1999. Records of participants who are terminated from the Program and are deemed to present a threat to the public or his or her own health and safety, are no longer confidential (B&P, Section 2770.11). A copy of all Diversion Program records for the registered nurse is forwarded to the BRN's Enforcement Program. The Board may use any of the records it receives in any disciplinary proceeding. The amended law also specifies that a registered nurse waives any laws and regulations relating to confidentiality of records if the registered nurse:

- Presents information relative to his or her participation in the Diversion Program during any Board disciplinary proceedings.
- Files a lawsuit against the Board relating to any aspect of the Diversion Program.
- Claims in defense to a disciplinary action that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation (B&P, Section 2770.12).

The costs for the Diversion Program are borne mainly by the BRN. Program participants pay $15 per month to help offset Program costs to the BRN. A participant may request that the payment be deferred based on financial hardship. Participants are responsible for the cost of random body fluid tests as well as any treatment that is mandated.

Statistics related to participant outcomes and overall costs of the program are detailed in the following table:

DIVERSION PROGRAM STATISTICS

	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Total Program Costs*	$766,637	$794,152	$796,034	$825,220	$862,220	$878,926
Total Participants	404	398	371	396	392	402
Successful Completions	58	68	65	65	74	49
Unsuccessful Completions	41	77	63	45	50	59

* Monies to contractor.

CONSUMER SATISFACTION

The BRN mailed a Consumer Satisfaction Survey to a random sample of complainants whose complaints were closed during fiscal years 1996/97 through 2000/01. Additional surveys were mailed to complainants whose cases were closed from July 1, 2001 to March 30, 2002. The complaints were filed by the public or the nursing industry, e.g., employers, co-workers, etc., and included cases closed with or without disciplinary action. Findings disclosed that overall and regardless of the outcome of the complaint, the complainants were satisfied with knowing where to file the complaint, the way the complaint was initially handled, and how BRN staff treated them. Satisfaction with information and advice provided, outcome of the complaint, and overall satisfaction with services provided by the BRN were correlated to the outcome of the complaint. Specifically, there was a higher level of satisfaction when disciplinary action was taken. Regardless of outcome, complainants were generally dissatisfied with length of time to settle the case and the way they were kept informed about the status of the case.

Comprehensive findings of the survey are detailed on page 51. The following information summarizes the findings:

Fiscal Years 1996/97 – 2000/01:

- 83% were satisfied in knowing where to file a complaint.
- 70% were satisfied with the way they were treated and how the complaint was handled.
- 51% were satisfied with the information and advice given on the handling of the complaint.
- 39% were satisfied with the way the BRN kept them informed of the status of their complaint.
- 33% were satisfied with the time it took to process their complaint.
- 32% were satisfied with the outcome.
- 45% were satisfied with the overall service provided by the BRN.

Of the 1,176 complaint surveys mailed, 461 were undeliverable and 327 responses were returned. Of the 327 responses returned, 54 involved complaints that resulted in disciplinary action and 273 involved complaints closed with or without merit. The response rate for complaints with disciplinary action was 38% and the response rate for complaints closed without discipline was 39%. The overall response rate was 46%.

Fiscal Year 2001/02:

- 87% were satisfied in knowing where to file a complaint.
- 82% were satisfied with the way they were treated and how the complaint was handled.
- 71% were satisfied with the information and advice given on the handling of the complaint.
- 44% were satisfied with the way the BRN kept them informed of the status of their complaint.
- 36% were satisfied with the time it took to process their complaint.
- 40% were satisfied with the outcome.
- 60% were satisfied with the overall service provided by the BRN.

Of the 107 complaint surveys mailed, 36 were undeliverable and 45 responses were returned. Of the 45 responses, 13 involved complaints that resulted in disciplinary action and 32 involved complaints closed with or without merit. The response rate for complaints with disciplinary action was 54% and the response rate for complaints closed without discipline was 39%. The overall response rate was 46%.

As previously stated, the survey results show a significant difference in satisfaction between complaints closed without discipline and complaints closed with discipline. Approximately 70% of respondents expressed satisfaction with outcome when disciplinary was taken, compared to about 25% satisfaction rate when the case was closed without discipline. The finding is understandable and expected in view of the fact that the complainant filed the complaint based on a belief that there was a violation and naturally anticipates some type of discipline. However, provision of additional information about the complaint process, the legal requirements and evidence necessary to substantiate a violation of the Nursing Practice Act, and the meaning of "closing with merit" may improve the satisfaction rate. The BRN plans to develop a "Frequently Asked Questions and Answers" document, which will be mailed with the complaint acknowledgement letter. The document will describe the steps, procedures, and time frames from receipt of complaint to final disposition.

CONSUMER SATISFACTION SURVEY RESULTS

Questions	1996/97 – 00/01				2001/02			
	Closed w/ Discipline		Closed w/out Discipline		Closed w/ Discipline		Closed w/out Discipline	
	Satisfied	Dissatisfied	Satisfied	Dissatisfied	Satisfied	Dissatisfied	Satisfied	Dissatisfied
1. Were you satisfied with knowing where to file a complaint and whom to contact?	94%	6%	80%	19%	100%	0%	81%	19%
2. When you initially contacted the BRN, were you satisfied with the way you were treated and how your complaint was handled?	87%	11%	67%	31%	92%	8%	78%	22%
3. Were you satisfied with the information and advice you received on the handling of your complaint and any further action the BRN would take?	80%	17%	46%	52%	77%	23%	69%	31%
4. Were you satisfied with the way the BRN kept you informed about the status of your complaint?	56%	41%	36%	62%	62%	38%	38%	63%
5. Were you satisfied with the time it took to process your complaint and to investigate, settle or prosecute your case?	46%	50%	31%	66%	31%	69%	38%	63%
6. Were you satisfied with the final outcome of your case?	74%	11%	24%	68%	69%	15%	28%	69%
7. Were you satisfied with the overall service provided by the BRN?	76%	17%	39%	54%	92%	8%	47%	53%

The items do not equal 100% because not all respondents answered each item.

ENFORCEMENT EXPENDITURES AND COST RECOVERY

AVERAGE COSTS FOR DISCIPLINARY CASES The table below shows the average costs of the investigation and prosecution per case. Costs ranged from $2,632 to $12,835 dependent on the complexity of the case. Unprofessional conduct cases, most of which involve relatively minor convictions that are substantially related to the practice of nursing, tend be less complex and therefore, less costly. Other lesser-cost cases include out-of-state disciplinary action by another licensing board resulting in discipline by this Board. Such low cost cases require little or no investigation and little work at the AG's Office.

More complex cases include egregious acts of gross negligence or other acts and convictions of such a serious nature that extensive investigation is necessary. The investigation may include interviewing multiple individuals and witnesses who work with the registered nurse, interviewing multiple family members and other witnesses to the incident(s), obtaining medical and personnel records, and going to multiple worksites and other locations. For the prosecution of such a case, there is often a need for review of all documents obtained during the investigation by an outside registered nurse expert, and sometimes a psychological or psychiatric examination is necessary. When a case gets to the AG's Office, there are legal assistant costs for putting together the pleading (an "accusation" for a licensee and a "statement of issues" for an applicant), which may result in identification of certain weaknesses or flaws in the information provided. The assigned Deputy Attorney General (DAG) may need to do extensive legal research of all information identified above in preparation for a potentially lengthy hearing process.

As mentioned previously, there was a budget shortfall in fiscal year 2000/01 due to the increased number of cases transmitted to the AG's Office and a backlog of cases pending at the AG's Office. Consequently, in April 2001, the BRN suspended action on all cases pending at the AG's Office, except those cases involving patient death, crimes of violence, sexual assault, or other acts that would pose a direct threat to patient safety. The same actions were taken in January 2002, due to a budget shortfall. A Budget Change Proposal was submitted for enforcement costs in spring 2001. The fiscal year 2001/02 component was denied, and the 2002/03 component was approved on a two-year limited-term basis.

AVERAGE COST PER CASE INVESTIGATED	FY 1996-97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Cost of Investigation	$1,778,626	$935,285	$1,484,825	$1,581,373	$2,101,289	$2,891,840
Cost of Experts Witnesses	$56,746	$74,440	$51,233	$93,980	$131,874	$121,705
Number of Cases Closed	363	461	611	768	795	820
AVERAGE COST PER CASE	**$5,056**	**$2,190**	**$2,514**	**$2,181**	**$2,809**	**$3,675**

AVERAGE COST PER CASE REFERRED TO AG	FY 1996-97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Cost of Prosecution	$922,111	$1,240,565	$912,343	$1,246,819	$1,633,255	$1,488,436
Cost of Admin Hearings	$214,489	$174,484	$204,560	$235,932	$242,477	$274,798
Number of Cases Referred	222	222	201	225	307	308
Average Cost Per Case	$5,120	$6,374	$5,557	$6,590	$6,110	$5,725
AVERAGE COST PER DISCIPLINARY CASE	**$10,176**	**$8,564**	**$8,071**	**$8,771**	**$8,919**	**$9,400**

Cost Recovery Efforts---The administrative cost recovery amounts ordered and received in the past six years are detailed in the table below. In every Accusation filed since January 1996, the BRN has included a pleading for cost recovery pursuant to B&P Code Section 125.3. A total of $639,062.00 has been collected in this time period.

COST RECOVERY DATA	FY 1996/97	FY 1997/98	FY 1998/99	FY 1999/00	FY 2000/01	FY 2001/02
Total Enforcement Expenditures	$2,971,972	$2,424,774	$2,652,961	$3,158,104	$4,108,896	$4,776,780
# Potential Cases for Recovery*	N/A	297	318	411	512	464
# Cases Recovery Ordered	82	75	81	66	62	114
Amount of Cost Recovery Ordered	$312,040	$289,498	$451,618	$306,150	$202,603	$466,350
AMOUNT COLLECTED	**$41,291**	**$55,918**	**$127,190**	**$119,933**	**$125,322**	**$169,408**

*The "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on a violation, or violations, of the License Practice Act.

RESTITUTION PROVIDED TO CONSUMER

The Board does not have authority to order restitution to consumers.

COMPLAINT DISCLOSURE POLICY

The BRN Complaint Disclosure Policy (Attachment 5) was last revised and adopted by the Board September 7, 2001. Pursuant to the policy, the BRN releases complaint information once an accusation is prepared by the Attorney General's Office and filed by the BRN, with certain exceptions. In the following situations, complaint information is disclosed in lieu of or prior to the filing of an accusation:

- Citations, fines, and orders of abatement are subject to public disclosure once they become final.
- Interim suspension orders are disclosed to the public after an administrative hearing upholding the suspension.
- Suspensions or practice restrictions imposed pursuant to Penal Code Section 23 are disclosed after the court decision.

A summary of a complaint may be provided to the subject of the complaint or the subject's attorney under Section 800(c) of the Business and Professions Code. The BRN may elect not to disclose investigative files under Section 6254(f) of the Public Records Act; Section 6254(c) exempts disclosure of certain personal information.

The BRN has based its disclosure policy on legal advice and concerns about consumer protection, investigative integrity, and basic privacy issues pursuant to:

1. Public Records Act (Government Code Section 6250 et seq.)
2. Information Practices Act (Civil Code Section 1798 et seq.)
3. California Constitutional Right to Privacy (California Constitution, Article I, Section 1)

TYPE OF INFORMATION PROVIDED	YES	NO
Complaint Filed		✖
Citation	✖	
Fine	✖	
Letter of Reprimand *	✖	
Pending Investigation		✖
Investigation Completed		✖
Arbitration Decision		✖
Referred to AG: Pre-Accusation	**N/A**	
Referred to AG: Post-Accusation		✖
Settlement Decision**	✖	
Disciplinary Action Taken	✖	
Civil Judgment***	✖	
Malpractice Decision	**N/A**	
Criminal Violation: Felony*** Misdemeanor***	 X X	

* A public reprimand is considered disciplinary action.
** This is considered disciplinary action.
*** If resulting in accusation or disciplinary action.

CONSUMER OUTREACH, EDUCATION, AND USE OF INTERNET

The BRN uses a variety of methods to reach consumers, registered nurses, the healthcare industry, and other interested parties. These include:

- **BRN Web site, www.rn.ca.gov** ---The Web site has been operational since 1999. The number of hits per month has increased from 7,222 in January 2000 to 75,000 in July 2002.

- **Nurse Web site, www.nurse.ca.gov** ---This Web site was created by the BRN in 2002 and provides information on becoming a registered nurse, returning to the nursing profession, and updates on the Governor's Nurse Workforce Initiative.

- **Brochures and Videos**---In October 1996, the BRN released consumer brochures and videos to help the public and the industry access BRN services. These educational tools cover the Enforcement Program, Diversion Program, and overall BRN services. Approximately 60,000 brochures and 530 videos have been distributed to the public during the past six years and they continue to be a useful resource.

- **Presentations**---Board members and staff give presentations to consumers, registered nurses, student nurses, governmental agencies, and professional organizations.

- **The BRN Report**---The BRN's official newsletter is mailed to all California-licensed registered nurses, consumer groups, and associations. Copies are available in the BRN Sacramento and El Monte offices. It is also available online at the BRN Web site. (Due to budget constraints, the newsletter was last published in spring 2001; it is projected to be published in fall 2002.)

- **Educational Conferences and Nursing Summits**---The BRN sponsors/co-sponsors educational conferences that are generally geared to meet nursing practice, education, or discipline related needs. The public is invited to conferences and summits that are focused on more global issues, such as the nursing shortage. For example, Nursing Summits were held in 1997 and 1999 and were open to the public. Consumer organizations such as AARP were invited, as well as the media.

- **Public Inquiries**---The BRN responds to questions about nursing practice, BRN programs, and related issues from consumers that reach the BRN via telephone, mail, e-mail, and the Web master.

Online Consumer Services---The BRN's Web site "went live" on March 15, 1999, and has been continually updated with BRN activities. These include all public meetings, agendas and minutes; applications for licensure; the renewal process; how to file a complaint on a licensee

or the Board; disciplinary actions; policies and advisory statements; newsletters, and the Nursing Practice Act. In July 2001, the BRN was able to provide online license verifications for registered nurses and Continuing Education Providers. The public can verify the status of a license 24 hours a day, 7 days a week. If additional information is needed on a disciplinary action, the requestor is able to contact the office during regular business hours. The information is updated during business days to reflect any status changes.

Online Services to Registered Nurses---The BRN offers the following online services to registered nurses:

- License renewal
- Advanced practice certificate renewal
- Duplicate license request
- Address changes
- Licensure by endorsement

Applicants for registered nurse licensure by examination can access and download the licensing application.

Online Testing Examination Services for Initial/Renewal Licenses---The national licensing examination for registered nurses (NCLEX-RN) has been a computer-adaptive test since 1994. Effective October 2002, *NCS/VUE* Testing Service will be the new vendor for NCLEX-RN and will be providing enhanced online services. There is no examination for license renewal.

Internet Enhancements---In July 2002, the BRN expanded online services to include the ability to apply for licensure by endorsement and to pay the applicable fees by credit card. The BRN anticipates that within the next year licensure by examination applicants who fail the examination will be able to file their "repeat" application online using a credit card. The service would then be expanded to first-time applicants for licensure by examination. Additionally, the BRN is exploring subscription services to provide bulletins to registered nurses and the public about emerging issues and policies.

Registered Nursing Practice Outside the Traditional "Marketplaces"---Registered nurses practice in a variety of specialty areas and settings and the Nursing Practice Act is written to enable expansion of practice. The BRN is unaware of any current practice outside the traditional "marketplaces."

Online Advice Challenges---In its 1996 Sunset Review Report, the BRN recommended that DCA establish an interdisciplinary committee of representative of the healing arts boards to collaborate in addressing professional healthcare licensing issues resulting from telenursing/telehealth. The BRN's recommendation was based on common, unique, and overlapping issues related to inter/intrastate practice, multi-state licensure, and discipline caused by increasing use of technology to provide healthcare across state lines. Enactment of AB 285 (Stats. 1999, c. 535), which became effective January 1, 2001, essentially eliminated BRN issues related to telenursing. The statute requires businesses providing telephone medical

advice to register with the DCA Telephone Medical Advice Services Bureau. Before a business receives its license, healthcare professionals, including registered nurses, must have a California license. The BRN continues to recommend creation of a DCA interdisciplinary committee.

BRN Regulation of Internet Practice---The BRN has not identified any registered nurse-Internet practice that requires regulation.

PART 2

RESPONSE TO ISSUES IDENTIFIED AND FORMER RECOMMENDATIONS MADE BY THE JOINT LEGISLATCOMMITTEE

1996 BOARD RECOMMENDATIONS

2002 ISSUES & BOARD RECOMMENDATIONS

During the previous sunset review, the Joint Committee raised three issues and the BRN identified eight issues and developed a set of recommendations to address the issues. A summary of the issues and the Board's current recommendation is detailed in this section. Current trends and issues related to registered nursing and the Board's recommendations are also included.

JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE ISSUES AND RECOMMENDATIONS

1: Should the licensing of registered nurses be continued?

Background: Senate Bill 2036 (Stats. 1994, c. 908) mandated boards within the Department of Consumer Affairs to undergo sunset review. The boards were required to analyze the need for continued regulation of the profession and the effectiveness of the boards' regulatory programs. The Board of Registered Nursing was subject to the review in 1996 and demonstrated that regulation of registered nursing is essential for public health, safety, and welfare. All 50 states and the District of Columbia currently regulate the profession of registered nursing. Additionally, eighteen boards of nursing have gone through similar reviews, yet the practice of registered nursing has never been deregulated.

JLSRC Recommendation: The state should continue to license registered nurses; legislation was enacted in 1997 reauthorizing the BRN for a six-year period.

2002 Board Recommendation: In light of the increasing complexity of nursing care, advances in healthcare technology, and the nursing shortage, the need to regulate the profession of registered nursing is greater than ever. The BRN should be reauthorized.

2: Should the Board of Registered Nursing be continued or are there alternatives to the current regulatory program?

Background: There are two separate boards within the Department of Consumer Affairs responsible for regulating the practice of nursing: The BRN and the Board of Vocational Nurses and Psychiatric Technicians (BVNPT). The Boards were asked to investigate the advantages and disadvantages of merging into a unified board of nursing. The Boards' investigation determined that there was minimal (if any) potential for cost savings and great potential for upheaval and inefficiency in creating a "mega-board" to regulate nursing.

JLRSR Recommendation: An independent Board of Registered Nursing should be continued.

2002 Board Recommendation: The BRN and BVNPT should remain distinct regulatory boards.

3: Is the current DCA structure of independently functioning, autonomous boards that regulate a single profession adequate to deal with contemporary trends in the health care/managed care arena?

Background: As noted in the 1996 Sunset Review Report, technological advances have resulted in boards being confronted with unique, common, and overlapping issues related to inter/intrastate practice, multi-state licensure, and discipline. A 1995 study, *Reforming Health Care Workforce Regulation*, by the Pew Health Commission recommended that states consider creation of integrated licensing boards that could have varying degrees of jurisdiction over all healthcare practitioners. Along those same lines and recognizing the importance of communication and collaboration, the BRN recommended establishment of a DCA interdisciplinary committee of representatives of the healing arts boards to address professional healthcare licensing issues related to telehealth/telenursing.

JLSRC Recommendation: The DCA, along with the BRN and the other DCA healthcare practitioner regulatory boards, should consider creation of an advisory entity comprised of representatives of all DCA health practitioner licensing boards to deal with regulatory issues emerging from trends in healthcare/managed care.

2002 Board Recommendation: The BRN continues to recommend and would assist DCA and other healthcare professional boards in evaluating the establishment of an interdisciplinary advisory committee.

1996 BOARD RECOMMENDATIONS TO ENHANCE PUBLIC PROTECTION

In the process of the 1996 Sunset Review, a number of significant issues were discussed that resulted in the development of a set of recommendations approved by the Board. It was the Board's determination that the recommendations would enhance the safety of consumers receiving not only nursing care, but healthcare, along with improving the efficiency and effectiveness of the BRN's operations. Following is a summary of the issues and current Board recommendation.

1. A majority of registered nurse Board members be retained in order to most effectively provide consumer protection.

2002 Board Recommendation: The Board recommends continuation of the existing Board composition. Effective regulation of registered nursing requires that the Board members bring a wide range of subject matter expertise to the table for decisions that affect consumers. Over 60% of Board members' time is spent on complex enforcement cases, representing diverse practice settings. The public members rely on and value the far-ranging knowledge that the five registered nurse members bring to the discussion as they make crucial contributions based on their varied backgrounds. Frequently, the registered nurse members are able to explain why a violation is more severe than it may appear on the surface due to their knowledge of the implications and potential consequences for the patient. In addition, nursing practice and education policies need to be based on valid, job-related standards, which require current nursing expertise.

Registered nurse members not only bring their expertise, they also bring their patient advocacy perspective, as required by law for registered nurses (CCR, Section 1443.5). In this complex

arena of healthcare regulation, consumers are being well served by the current Board composition.

2. The Department of Consumer Affairs improve its enforcement tracking system to provide the BRN with a more effective means to monitor and act on cases.

Background: The BRN recognizes the importance and advantages of all boards employing a centralized, departmental tracking system. The BRN supported a redesign of the enforcement tracking system and volunteered to participate actively in such a redesign to arrive at a better program management tool.

2002 Board Recommendation: The Board continues to make this recommendation and further recommends that DCA develop an integrated computer system. (See Current Issues and Recommendations.)

3. Evaluate if the Education Code should be amended to conform to the Nursing Practice Act.

Background: The Education Code permits tasks, which would require a nursing license in other settings, to be performed by unlicensed school personnel, thereby subjecting students to a lower standard of care. School nurses are required to teach unlicensed individuals how to perform these tasks, with the school nurse being unable to adequately supervise such care. The problem is growing as increasing numbers of sicker children are being mainstreamed. The Board created a "School Nurse Advisory Committee" to identify issues and develop recommendations related to healthcare in public schools.

2002 Board Recommendation: The use of unlicensed personnel to provide nursing care in public schools continues to be a major issue and is addressed further in "2002 Board Issues and Recommendations."

4. A statutory definition of the "advanced practice nurse" be adopted.

Background: Nationally, the term "advanced practice nurse" refers to four categories of registered nurses with education and expertise beyond basic registered nurse education. The four categories are nurse anesthetists, nurse-midwives, nurse practitioners, and clinical nurse specialists. In discussions with the public, consumer groups, other professional organizations, and the legislature, the phrase "advanced practice nursing" helps identify these groups of certificated nurses and helps identify their special expertise and knowledge. In this era of healthcare reform, the BRN is finding increasing need to be able to identify these categories of registered nurses with advanced skills and knowledge through one phrase, and to protect this phrase from misappropriation by individuals who do not understand that the advanced practice nurse is a registered nurse with advanced training. Once this phrase is defined in statute, the BRN would be able to consolidate some of the advanced practice regulations under this over-riding phrase, rather than individually changing each body of regulations for each category of advanced practice nursing.

2002 Board Recommendation: The Board continues to believe that a statutory definition of "advanced practice nurse" is in the best interest of consumers.

5. The Nursing Practice Act be amended to change the term "furnishing" to "prescriptive authority."

Background: A furnishing number enables nurse-midwives and nurse practitioners, under standardized procedures, to write a medication order on a transmittal slip (similar to a physician's prescription form) for a pharmacist to fill; the advanced practice nurse thereby "furnishes" a drug to a patient. Two major problems exist with the terms furnishing and transmittal orders. The public and other healthcare providers do not understand what the terms mean. Medication orders and prescription are synonymous. Furnishing and transmittal orders are confusing. The second problem, however, is more serious. In some instances, pharmacists refuse to fill a medication order on transmittal slips on the basis it is not a prescription. As a result, the patient does not obtain needed medication. The Board is very concerned about this practice and strongly recommends change. Deletion of the word furnishing eliminates the ongoing confusion regarding this word and facilitates the filling of medication orders by pharmacists.

Legislation enacted in 1999 and 2001 resulted in nurse practitioners and nurse-midwives being eligible for Drug Enforcement Administration numbers, which facilitated their furnishing of controlled substances. However, the new laws did not resolve the underlying problems of consumer access to medications and consumer confusion created by use of the term "furnishing."

2002 Board Recommendation: The Board continues to support legislative remedies to remaining advanced practice nursing issues related to prescribing medications.

6. The Department of Consumer Affairs should establish an interdisciplinary committee of representatives of the healing arts boards to collaborate in addressing professional healthcare licensing issues related to telenursing/telehealth.

Background: Advances in telecommunications technology resulted in new and innovative ways to provide healthcare to consumers. Telehealth, telenursing, and telemedicine were terms being utilized to describe the use of telecommunications technology to provide care. As a result of the technological advances, boards were confronted with unique, common, and overlapping issues related to inter/intrastate practice, multi-state licensure, and discipline. The identification of issues and development of strategies that allow for maximum utilization of technological advances while ensuring consumer protection are best addressed using a coordinated, collaborative approach. A DCA interdisciplinary committee was identified as one such approach.

2002 Board Recommendation: The vast majority of registered nursing issues related to telehealth/telenursing were resolved with enactment of AB 285 (Stats. 1999, c. 535). The bill requires businesses providing medical advice to register with DCA and all health professionals, including registered nurses, providing advice to California residents are required to have the appropriate California license. Although telehealth/telenursing issues have been addressed,

there continue to be issues whose resolutions could be facilitated and expedited through collaborative efforts of a DCA interdisciplinary committee. The Board continues to recommend creation of such a committee.

7. One of the direct-practice registered nurse Board member positions be designated as an advanced practice registered nurse.

Background: Designation of a Board member position as advanced practice would reflect the reality of today's healthcare scene in which direct care of patients by advanced practice nurses has grown dramatically. This trend continues as the public seeks the provision of care through effective, affordable alternatives for consumers. It is critical that the Board include a level of expertise to effectively regulate independent advanced practice nurses who provide complex care. An advanced practice Board member brings the expertise to set practice and education standards, ensure safe practice, and evaluate difficult enforcement cases.

The Board has been fortunate to have advanced practice nurses as members, although not required by law. These advanced practice nurse members have demonstrated how critical such expertise is to the Board. The Board recommended designating in statute that one direct-practice registered nurse be an advanced practice nurse to guarantee this level of expertise in the future.

2002 Board Recommendation: The Board continues to benefit from the expertise of its advanced practice nurse member(s); but does not perceive a need, at this point, to seek statutory changes designating a Board position specifically for an advanced practice nurse.

8. Statutory authority for Board certification of clinical nurse specialists be adopted.

Background: At the time of last review, clinical nurse specialists (CNSs) were not certified by the BRN. In 40 other states, CNSs were recognized as advanced practice nurses and were certified as such by the registered nursing board. Federal law also provided reimbursement for services rendered by CNSs who were state-certified; California CNSs did not qualify for the Federal reimbursement since there was no state certification. A legislatively mandated BRN study determined that certification in California would prevent misuse of the title by unqualified individuals, minimize confusion for consumers, and remove barriers to full utilization of CNSs in California.

At the time of the review, legislation was pending authorizing BRN certification of CNSs and was subsequently enacted (AB 90, Stats. 1996, c. 159).

2002 Board Recommendation: None required.

2002 ISSUES AND BOARD RECOMMENDATIONS

The issues reported in the following section are derived from the BRN's ongoing evaluation of its services and programs; active involvement with consumer, professional, and other governmental agencies; and research conducted by BRN staff and advisory committees. It also reflects input received at two public forums conducted by the BRN in winter 2001.

NURSING SHORTAGE---The shortage of registered nurses in the nurse workforce is undeniably the most critical issue affecting nursing both from a regulatory and professional perspective. The shortage adversely impacts consumers and the healthcare delivery system. Although nursing shortages have been cyclical, the present one is unique in its cause, pervasiveness, and expected duration if interventions are not implemented. The following excerpt from the June 2002 Scott Commission report, *Educating California's Future Nursing Work Force,* clearly and succinctly depicts the current situation:

> "Conservative estimates indicate California will have a shortfall of 25,000 nurses within six years if changes in the health care industry and higher education do not occur. This shortfall will result in a public health crisis for the growing and aging population. The impending nursing shortage in California is unlike any the state has experienced in the past. Resting in the balance of California's nursing workforce planning is the quality of patient care. An insufficient supply of trained nurses threatens to jeopardize public health. Understaffed facilities that result in additional overtime work hours and increased workloads erode the attractiveness of the profession to those seeking to enter nursing and lead to greater attrition of current nurses. Effective workforce planning, adequate educational resources, and responsible employment practices can ensure the supply of RNs needed to provide care to California patients."

The California Legislature is aware of the issue and has conducted several hearings on the matter. In March 1998, the Senate and Business Profession Committee, chaired by Senator Richard Polanco, conducted an informational hearing on the shortage; in spring 2000, Assembly Members Lou Correa and Martin Gallegos, then-Chair of the Assembly Health Committee, held a forum on the shortage; and in October 2000, Assembly Member Helen Thomson convened a forum. Private and public sector organizations have conducted extensive research on the shortage. The issue is also in the public domain and is well publicized; there have been numerous newspaper articles, press releases, and television programs on the subject. Information gleaned from these sources include:

- California ranks 49th in registered nurse-to-population ratio with 544 registered nurses per 100,000 population. The national U.S. average is 782.

- A vacancy rate of approximately 14% in California and 12% nationwide for registered nurse positions.

- Enrollments in California prelicensure nursing programs have remained at the same level since the 1980's.

- Contributing factors for the shortage include an *increased demand* for registered nurses resulting from aging population and increased complexity of care with a concomitant *decreased supply* caused by aging of the current registered nurse workforce (the average age for registered nurses is 47 years), fewer people entering the profession, and increased dissatisfaction with working conditions. The recently enacted nurse patient ratio regulations will also increase the demand.

- In hospitals with fewer nurses to patients, patients are more likely to suffer from preventable complications, to be hospitalized longer, and to die from treatable conditions.

Attachment 6 provides more detailed information about the nursing shortage in the workforce.

The BRN has worked diligently, within the constraints of available resources, and has been actively involved with other agencies and organizations in the development and implementation of strategies to clarify and ameliorate the situation. Activities representative of BRN's efforts to address the registered nurse workforce shortage include:

1. Review of BRN regulations, rules, and policies to ensure they are not creating any artificial barriers to adding registered nurses to the workforce as quickly as possible.

2. Continues to issue interim permits so eligible examination applicants can work while waiting to take the examination and receive their test results. Licenses are issued within two weeks of applicants passing the exam.

3. Established an online endorsement application. This system will permit registered nurses who are licensed in other states to readily complete and submit their application and fee via the Internet to become licensed in California.

4. Approved three new prelicensure nursing programs.

5. Active involvement in the Governor's Nurse Workforce Initiative. On January 23, 2002, the Governor issued a press release unveiling his three-year Nurse Workforce Initiative (NWI) to increase the number of licensed nurse in California. The California Health and Human Services Agency (CHHS) is coordinating numerous state agencies in the implementation of the NWI. The BRN and Board of Vocational Nursing and Psychiatric Technicians have been designated as lead or collaborative agencies for 8 of the 10 components of the NWI. The following activities have occurred:

    - **Nurse Web Site---**The BRN created a Web site, www.nurse.ca.gov, which provides information about how to become a nurse, return to nursing, and help in the recruitment of future nurses. The Web site also provides the latest updates on the California Nurse Workforce Initiative.

    - **Stakeholders' Meeting---**On May 3, 2002, CHHS conducted a stakeholders' meeting to brief employer and employee organizations and other interested parties on the NWI and to obtain their feedback. Over 100 people attended the meeting.

CHHS released a concept paper, and key agency representatives, including the BRN Executive Officer, made presentations.

- Solicitation for Proposals---On June 4, 2002, the Employment Development Department's Workforce Investment Board released its first Solicitation for Proposals for projects totaling up to $28 million to increase the number of licensed nurses through regional training collaboratives, onsite career ladders, and workplace reforms. The BRN and BVNPT provided input on the content of the SFP and the two Boards provided staff and identified nursing experts to assist in the evaluation of proposals. The BRN participated in bidders' conferences that were conducted in northern and southern California.

  A second SFP is expected to be released later this year for $24 million to fund increased slots in nursing school programs.

- Outreach Program---In addition to the new Web site, the Department of Consumer Affairs, BRN, and BVNPT are participating on the NWI taskforce to find creative ways to conduct cost-effective outreach for future nurses.

6. Involved with the California Strategic Planning Committee for Nursing (CSPCN)---The Committee is a consortium of state nursing organizations and state agencies established in 1992 to develop a dynamic forecasting model to predict workforce needs of registered nurses, advanced practice nurses, and licensed vocational nurses. The BRN assumed a leadership role in the organization. CSPCN will be disbanded at the conclusion of its fourth nursing summit, "California Addresses The Nurse Shortage: Creative Solutions, Collaborative Partnerships" on September 13, 2002.

7. Established two committees to advise the BRN:

   - BRN Nursing Workforce Advisory Committee---The Committee is charged with providing expert input on research questions for workforce surveys, studying workplace reform issues, and recommending strategies to recruit and retain student nurses, nursing faculty, and direct care nurses.

   - Education Advisory Committee---The Board approved appointment of this Committee to support the goals of the Governor's Nurse Workforce Initiative. The Committee will provide expertise on methods to reform the prelicensure nursing educational system, including standardization of prerequisites and co-requisite courses.

8. Took the lead role and facilitated formation of the Scott Commission and assisted with the development and completion of a statutorily mandated report to the Governor and Legislature on nursing education in April 2000.

The above-described activities demonstrate that the nursing shortage in the workforce is recognized and that state policy makers, regulatory agencies, and nursing educators, organizations, and employers are willing to make a concerted effort to address current and

future nursing workforce issues and to provide more California-educated registered nurses to meet the healthcare needs of our residents.

The BRN is committed to assisting in resolution of the current shortage in the nurse workforce and planning for future needs; however, there are two major challenges. The challenges and Board recommendation are detailed below.

1. Availability of Data---The BRN has been in the forefront of collecting data on registered nurses since the early 1990's. Pursuant to existing law, the BRN is authorized to conduct a registered nurse survey at least every five years. However, no funding has been appropriated for the survey. Also, given the rapid changes that occur in healthcare technology and delivery systems and California population projections, it is imperative that data on registered nurses be obtained more frequently.

Recommendation: There be a statutory mandate that the BRN conduct research related to nursing demographics, workforce, and education at least every three years with funding appropriated from the BRN special fund.

2. Educational Requirements---Colleges and universities play a critical role in the amelioration of the nursing shortage by preparing new nursing graduates to enter the workforce. However, there are barriers in the current educational system that prevent registered nursing students from matriculating in a timely manner. The system needs to be reformed, including standardization and alignment of prerequisite and co-requisite courses, in order to increase access and shorten the length of time for completion of prelicensure nursing programs.

Recommendation: The BRN should continue to work the with the Chancellor of the California Community Colleges, the Chancellor of the California State University, the President of the University of California, and the President of the Association of Independent Colleges to reform the educational system to increase student access and shorten the time for completion of nursing programs. Prerequisite and co-requisite courses should be standardized and course requirements for nursing curricula should be aligned.

ENFORCEMENT CASE AGING---The BRN recognizes the importance of its enforcement mandate and places high priority on protecting consumers by the appropriate and timely disciplining of registered nurses' licenses. As previously noted, over 70% of the BRN's budget is spent on enforcement-related activities and the BRN continuously seeks and implements strategies to maximize the Enforcement Program's effectiveness and efficiency. (See Sections 1, 2, 4, and Attachment 4.) Indicators of the Enforcement Program's effectiveness include:

- 75% of complaints are referred for investigation to either BRN staff or the Division of Investigation.

- Decrease in BRN complaint processing time from 275 days in fiscal year 1998/99 to 157 days in fiscal year 2001/02.

- Increase in referrals to AG's Office from 214 to 320 cases and an increase in number of accusations filed from 130 to 274 between fiscal years 1996/97 to 2000/01. (Budgetary shortfalls in fiscal years 2000/01 and 2001/02 prevented continuing increases in these two categories.)

- Increase in stipulated settlements from 56 to 115 from fiscal year 1996/97 to 2001/02. Stipulated settlements are a more expeditious and less costly method of case resolution.

- Increase in disciplinary actions from 170 to 244 in the last six years.

- Use of Penal Code Section 23 to quickly intervene and prohibit/restrict a registered nurse's practice when warranted.

Despite of these efforts, the BRN's own Program assessment, Consumer Satisfaction Survey outcomes, and input at the public forums document an unacceptably lengthy time period from initial filing of a complaint to resolution, i.e., case aging. The total average days has decreased from the 1998/99 high of 1237 to 1,191 in 2001/02. As noted above, the number of days for BRN processing has steadily decreased and there are ongoing efforts to further decrease the number of days. Similarly, the length of time for the AG's Office to prosecute cases has decreased from 601 to 520 days in the same time period and is expected to decrease more as a result of budget augmentations. Conversely, the investigative period has increased from 465 days in 1999/00 to 514 in 2001/02. Staff shortages at the Division of Investigation may result in increased processing time for cases.

Recommendation: DCA should assist the Division of Investigation in the development and implementation of strategies to expedite cases referred by the BRN.

ENFORCEMENT TRACKING SYSTEM---DCA maintains an enforcement tracking system for all boards and bureaus. In the last report, the BRN recommended that the DCA system be enhanced to enable better tracking of cases, linking of data, and generating reports.

In October 2000, the Department held its first meeting to introduce the concept of developing a new Professional Licensing and Enforcement Management System (PLEMS). Since this time, DCA has worked with the control agencies to obtain the support and funding for this major information technology project. Currently, the BRN is participating in the department-wide Business Process Analysis (BPA) that will identify opportunities for technology to improve professional licensing, examination tracking, and enforcement processing, including tracking and monitoring complaints and disciplinary actions through the various stages. Additionally, the new system will allow technology to support changes in laws and processes. The BPA is due in January 2003, and once completed, DCA will have various business processes documented along with process improvement recommendations. It is anticipated that PLEMS will be available in roughly 2006.

The BRN supports creation of a department-wide integrated computer system that captures licensing and enforcement data. However, in view of a projected implementation date of 2006, the need to make improvements and enhancements in the current system to better enable tracking, monitoring of casing, and generating of reports continues.

Recommendation: DCA should continue to make improvements and enhancements in the existing enforcement tracking system while working on the development and implementation of an integrated department-wide licensing and enforcement computer system.

SCHOOL HEALTH---California's public school children are being placed at risk due to the inappropriate use of unlicensed assistive personnel to provide nursing care in schools. This message was repeatedly echoed at BRN forums conducted in 1995 and 2001. The Board appointed the BRN School Nurse Advisory Committee in 1996. The Committee's charge was to identify issues related to healthcare in public schools and to develop recommendations to address the issues. The Committee submitted its report to the Board in May 1998 and identified 8 issues and recommendations, which the BRN is implementing. A copy of the Committee's report will be submitted with this report.

One of the most significant and challenging issues is the conflict between the Nursing Practice Act and the California Education Code related to provision of nursing care. Specifically, the Nursing Practice Act prohibits registered nursing from assigning tasks that require substantial knowledge or technical skill, including medication administration, to unlicensed personnel. The Education Code, on the other hand, permits school nurses to train and supervise unlicensed personnel to perform such tasks. The problem is exacerbated by the increasing numbers and complexity of healthcare needs of children in public school and the lack of a concomitant increase in the number of school nurses to provide the care and supervise others in the provision of care.

There is limited research and data related to the provision of healthcare by unlicensed personnel in the school setting. Findings of a 1994 national school health study mirrored those for recent surveys for hospitals. Specifically, there was a positive correlation between the availability of school nurses and children's well-being. The California School Nurses Organization is conducting a survey to determine what the **public** knows about school health and school nursing issues. The public's perception, albeit erroneous, may be that there is a sufficient number of school nurses in public schools to meet the healthcare needs of the students. Parents are not made aware of healthcare services the school provides and who provides the care unless their child requires care. Even then, most parents probably make the assumption that the care is provided by qualified, trained, and appropriately supervised personnel. The results of the survey should be available early fall 2002. The survey questionnaire provides the following information:

- 94% of schools have students with asthma; insulin injections and emergency medication injections are administered daily in school.

- 45% of schools have students who require glucose monitoring; 23% of these students require daily self-injected insulin.

- Only 7% of schools have a full-time credentialed school nurse.

- With limited or no training, unsupervised school office staff administers first aid prescription medications to students in 83% of schools.

- School nurses and trained health assistants are on the school campus an average of only 51% of the time school is in session.

- There is only one school nurse for every 2,469 students in California schools, when the national recommendation is 1 school nurse for every 750 students. California's ratio is one of the highest in the nation.

For the last several years, the BRN has worked collaboratively with CDE on school health-related issues. BRN staff has served on two CDE advisory committees and has done joint presentations at many meetings. However, in spite of these efforts, issues related to nursing care in schools continue to increase and, given the existing statutes and the shortage of nurses in schools, are not likely to abate.

Recommendation: The CDE, in collaboration with the BRN and other interested organizations, should develop and implement strategies, including possible legislative remedies, to resolve the increasing number and complexity of school health related-issues and to ensure that pupils receive safe and appropriate care.

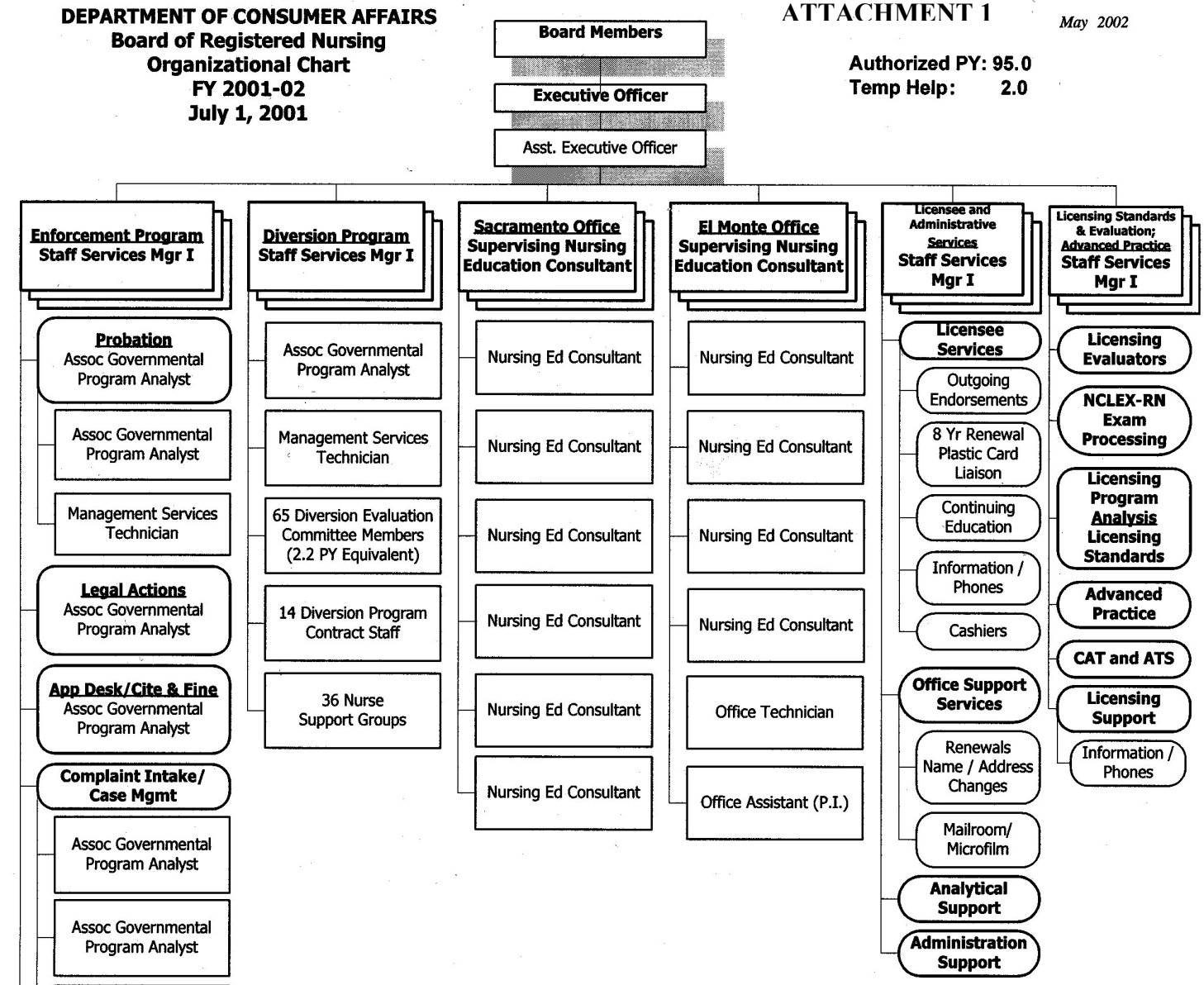
ATTACHMENTS

DEPARTMENT OF CONSUMER AFFAIRS
Board of Registered Nursing
Organizational Chart
FY 2001-02
July 1, 2001

ATTACHMENT 1

May 2002

Authorized PY: 95.0
Temp Help: 2.0



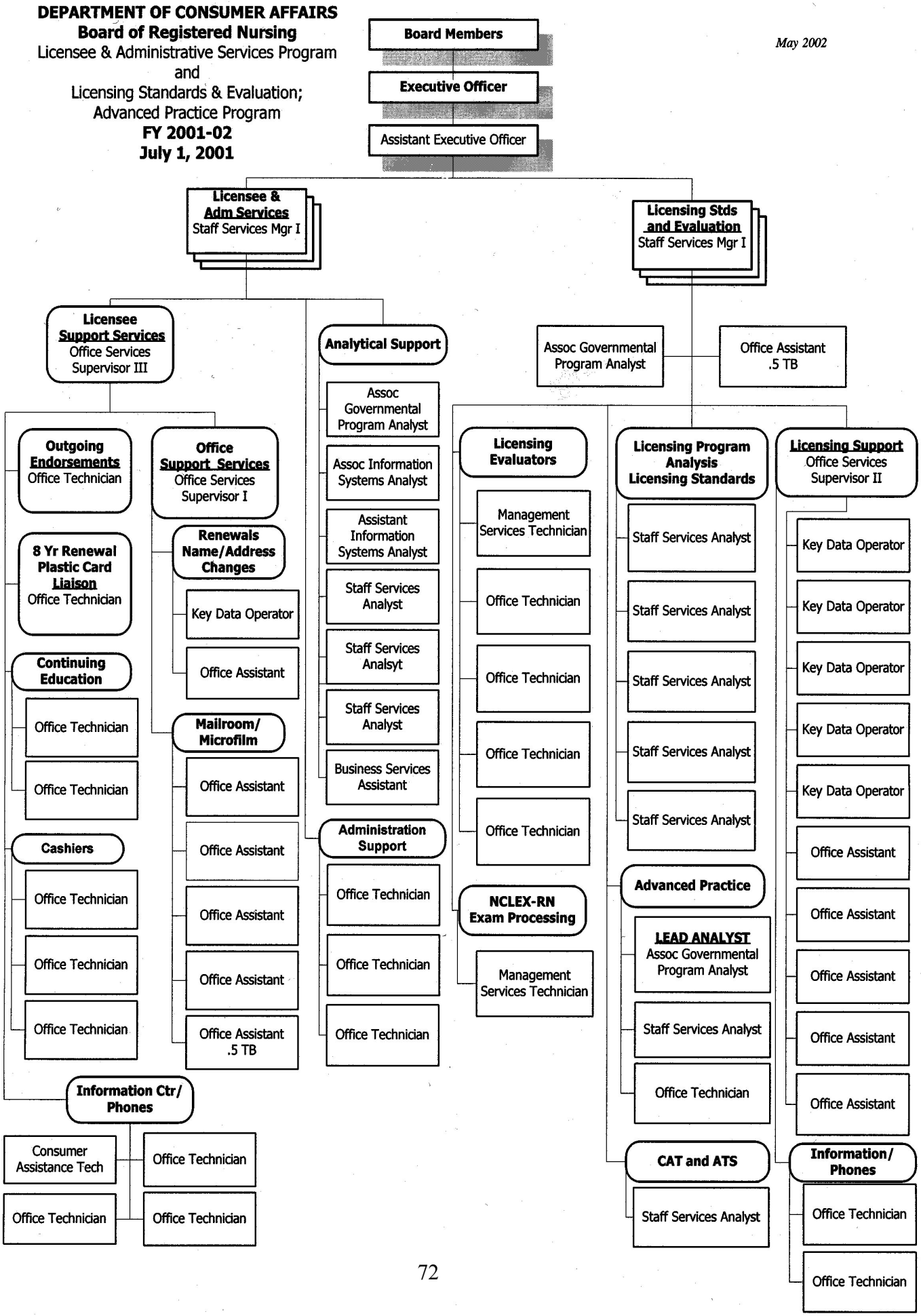
See Attached Organization Chart for Detailed Structure of:
Licensee & Administrative Services Program
and
Licensing Standards and Evaluation;
Advanced Practice Progaram

RuthAnn Terry, Executive Officer _____ Date _____

Personnel Office _____ Date _____

DEPARTMENT OF CONSUMER AFFAIRS
Board of Registered Nursing
Licensee & Administrative Services Program
and
Licensing Standards & Evaluation;
Advanced Practice Program
FY 2001-02
July 1, 2001

May 2002



ATTACHMENT 2

STATUTES IMPACTING REGISTERED NURSING ENACTED 1996 TO 2002

The BRN tracks approximately 30-35 bills annually, a number of which become law. Following is a partial list of statutes enacted after 1996 that affect registered nursing.

AB 2802 - Professions and Vocations (Stats. 1998, c. 970) Prohibits a registered nurse from petitioning to reinstate a license that has been revoked while the nurse is subject to an order of registration as a sex offender, rather than as a "mentally disordered sex offender."

AB 1439 - Health Care Practitioners (Stats. 1998, c. 1013) Prohibits any person, other than a registered nurse or a licensed vocational nurse, from using the title "nurse" and requires a health care practitioner to disclose his or her name and license status on a nametag.

AB 2305 - Pain Management (Stats. 1998, c. 984) Requires every health care plan contract that covers prescription drug benefits to provide coverage for appropriately prescribed pain management medications for terminally ill patients, when medically necessary.

SB 308 - Registered Nurse Education Fund (Stats. 1999, c. 149) Eliminated the sunset date of the Registered Nurse Education Fund that is supported by a $5 fee which nurses pay when they renew their licenses.

SB 1940 - Workers' Compensation (Stats. 1998, c. 388) Requires the Administrative Director of the Division of Workers' Compensation to establish a fee schedule for services provided by nurse practitioners and physician assistants.

AB 791 - Pain Management (Stats. 1999, c. 403) Requires every licensed health care facility to include pain as item to be assessed at the same time vital signs are taken.

SB 97 - Health Facilities (Stats. 1999, c. 155) Prohibits a health care facility from discriminating or retaliating against a patient or employee who presents a grievance or complaint, or initiates, or cooperates in an investigation or proceeding by a governmental entity, relating to the care, services or conditions of the facility.

AB 1731 - Long-term Health Care Facilities (Stats. 2000, c. 51) Requires the Department of Health Services to determine the need, and provide recommendations, for any increase in the minimum number of nursing hours per patient day in skilled nursing facilities, in order, to provide nursing home residents with a safe environment and quality nursing care.

AB 2516 - Registered Nurse Education Fund (Stats. 2000, c. 360) Extends participation in the Registered Nurse Education Program to allow students to serve in an eligible state-operated health facility.

SB 1364 - Genetic Counseling (Stats. 2000, c. 941) Provides for genetic counseling by certified advanced practice nurses with a genetics specialty.

SB 1549 - Public School Medications (Stats. 2000, c. 281) Requires the Board of Education to adopt regulations concerning the administration of medication to public school students. The Board of Registered Nursing has delegated a liaison to consult with the Board of Education.

AB 87 - Community Colleges (Stats. 2001, c. 514) Requires the Chancellor of the Community Colleges to award grants ($1,000,000) to community college districts for the purpose of developing curricula and pilot programs that provide training to licensed nurses in nursing specialty areas and grants ($4,000,000) to provide for enrollment growth in community college nursing programs.

AB 1017 - Victims of Crime (Stats. 2001, c. 712) Provides for the reimbursement of services provided to victims of crime by a registered nurse who possesses a master's degree in psychiatric-mental health listed with the Board of Registered Nursing, or a clinical nurse specialist in the specialty of psychiatric-mental health nursing.

AB 1194 - Workers Compensation (Stats. 2001, c. 229) Authorizes a nurse practitioner to sign the Doctor's First Report of Occupational Injury or Illness.

SB 111 - Medical Assistants (Stats. 2001, c. 358) Provides nurse practitioners and nurse midwives with the legal authority to supervise the work of medical assistants when the physician is not present.

SB 644 - Nursing Education (Stats. 2001, c. 443) Requires the Post-Secondary Education Commission to conduct a review and analysis of California Community College districts' admission procedures and attrition rates for their two-year associate degree nursing programs

State of California Department of Consumer Affairs

STATE OF CALIFORNIA- STATE AND CONSUMER SERVICES AGENCY

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Executive Officer

NEC PROCEDURE FOR MONITORING SUBSTANDARD NCLEX PERFORMANCE

ELC goal 6.4: Monitor the pass/fail rate for California candidates on the NCLEX for identification of high risk groups and schools with NCLEX failure rates consistently exceeding 30%.

1. CAT statistics are made available on a quarterly basis. The NEC should review the statistics quarterly and make recommendations as follows after each academic year:
   - First substandard performance (first academic year)
     Discuss with the program director the ELC goal and whether this is an expected or unexpected occurrence. Ask the director to submit a report outlining the program's action plan.
   - Second substandard performance (second academic year)
     Schedule an interim visit with specific objectives which include:
     a. Meeting with director
     b. Meeting with administrator
     c. Meeting with faculty
        Establish whether program's action plan is still current, and whether being met.
     d. Document on interim visit form.
     e. NEC presents finding in a written report to ELC with director present.

2. If there is no improvement in the next quarter, the program's NEC will schedule a full approval visit within the next six months, regardless of the date of the last visit, per B&P section 2788.

3. If there is evidence that the program has failed to address its substandard performance, the NEC will submit a report to the ELC.

4. The ELC will make a recommendation to the Board.

BRN ENFORCEMENT PROGRAM

The BRN continuously seeks to improve the effectiveness and efficiency of its Enforcement Program. Two major facets of the Program, formal investigation and legal services, are provided by other state agencies. The Division of Investigation (DOI) conducts formal investigations and the Attorney General's (AG's) Office provides legal services for disciplinary actions. BRN Enforcement Program staff has worked with both agencies to improve coordination, communication, and processing of cases. These affirmative efforts include the following:

Division of Investigation

Meetings---The BRN convened a meeting with the Deputy Chief and Supervising Investigators to explore the thoroughness and efficiency of DOI investigative processes. Legal issues impacting the investigative process were a primary concern. Additionally, periodic meetings with the DOI Chief, Deputy Chief, and commanders have been conducted to address the backlog/aging status of cases and prioritization of investigations.

Written and Verbal Communication---Enforcement Program staff communicate verbally and in writing on an on-going basis with DOI regarding the status of cases and problems identified in the processing of cases. Periodically, the Enforcement Program sends a comprehensive memo identifying all open cases to DOI. DOI responds with a current status of the cases and projected completion dates. The memo serves the purposes of: reconciling BRN cases with those at DOI to ensure cases don't get "lost" in the system; increasing awareness of case aging; and DOI committing to a completion date.

Coordination between DOI and AG's Office---The BRN served as an intermediary between the AG's Office and DOI on issues identified by the Deputy Attorney General (DAG) Enforcement Program Liaison related to DOI procedures for interviewing and acquiring patient records. A meeting was held with the Enforcement Program, DAG Liaison, and key DOI staff, on problem resolution.

DOI Improvements---The Enforcement Program has developed and implemented innovative methods to improve efficiency and accuracy at the DOI including: established criteria for prioritizing cases; developed BRN specific "Request for Service" and "Medical Record Release" forms; and standardized instructions to assist in investigative procedures based on case type.

DOI Training---Plans are in process for a comprehensive training of DOI staff. The training will include presentations by the BRN Enforcement and Diversion Program Managers, Nursing Education Consultant, and DAG Liaison. The training will focus on additional strategies and techniques to enhance DOI processing of registered nursing-related investigations.

ATTORNEY GENERAL'S OFFICE

Meetings---A meeting with the Senior Assistant Attorney General and Supervising Deputies Attorney General (SDAGs) was conducted to explore more efficient and cost effective ways of processing BRN cases. The agenda included: use of alternative (paralegal) staff; processing of cases based on case type and severity of charges; streamlining procedures during key steps in the disciplinary process; and AG's Office interaction with related enforcement agencies.

Written and Verbal Communication---Enforcement Program staff is in frequent contact both verbally and in writing with the AG's Office. Periodic phone meetings have been conducted with SDAGs to: refine and develop procedures for processing cases; ensure standardization of procedures throughout all regional offices; obtain opinions regarding complex policy issues; discuss potential policy and regulatory changes; and resolve issues related to the accuracy of processing of pleadings. As a result of these discussions, the BRN, SDAGs, and DAG Enforcement Program Liaison have issued memos and other written directives to address operational problems at the AG's Office.

Memos and e-mail communications have been sent on an on-going basis regarding status updates on aging cases and other problems raised in processing cases. Correspondence has also been sent regarding expediting cases involving imminent danger to patients and the public where use of Penal Code 23 or an Interim Suspension Order were to be considered.

On-Site DAG Liaison Visits---At the request of the BRN, the DAG Enforcement Program Liaison has conducted on-site visits to review BRN policies and procedures for review and transmission of cases to the AG's Office. Several areas of concerns, including problems with investigative processes, were identified and corrective action was implemented.

Program Changes---The Enforcement Program has made several changes to improve its operational effectiveness including: sending pleadings electronically to expedite processing; receiving, by fax, a draft of stipulated agreements for BRN review for accuracy and completeness; revising BRN forms sent to the AG's Office; and standardizing certain types of stipulated agreements and incorporating them into the AG's Office software.

State of California Department of Consumer Affairs

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ATTACHMENT 5

COMPLAINT DISCLOSURE POLICY

The Board of Registered Nursing (BRN) has established the following Complaint Disclosure Policy, as amended September 7, 2001.

The BRN releases complaint information once an accusation is prepared by the Attorney General's Office and filed by the Board, with certain exceptions. Following are exceptions to this policy, where complaint information is disclosed in lieu of or prior to the filing of an accusation.

1. Under Section 125.9 of the Business and Professions Code and Section 1435 et. seq. of the California Code of Regulations, the BRN may issue citations, fines, and orders of abatement in lieu of filing of an accusation. Information concerning the issuance of a citation, fine, and/or order of abatement may be disclosed after a final decision is reached.

2. Under Section 494 of the Business and Professions Code, an interim suspension order (IS0) may be issued in a case that is considered very recent, provable, shocking in nature, and posing an immediate threat, according to the Attorney General's (AG's) Office. After an order to suspend or restrict practice is issued pursuant to administrative hearing, this information may be disclosed to the public. ISOs may be issued in advance of the filing of an accusation.

3. Under Section 23 of the Penal Code, the BRN may obtain a court order to suspend or restrict a license in advance of the filing of an accusation. The AG's office joins a criminal proceeding on behalf of the Board to obtain this order. Such an order is disclosable.

The sections of law and constitutional provisions that must be considered when deciding when to disclose complaints include:

- Public Records Act (Government Code Section 6250 et. seq.)
- Information Practices Act (Civil Code Section 1798 et. seq.)
- California Constitutional Right to Privacy (Cal. Const., Article I, Section 1)

In general, the Public Records Act defines when documents may be withheld from public disclosure, and the Information Practices Act and Constitutional Right to Privacy define when an agency must keep "personal information" from public disclosure and when it is required to disclose information to the individual to whom the information pertains. (A summary of a complaint may be provided to the subject of the complaint or his/her attorney under Section 800(c) of the Business and Professions Code.) The Board may withhold from disclosure investigative files under Section 6254(f) of the Public Records Act, and Section 6254(c) exempts disclosure of certain personal information.

In summary, the Board has based its policy on legal advice and concerns about consumer protection, investigative integrity, as well as basic privacy issues.

BOARD APPROVED 09/01
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REGISTERED NURSING WORK FORCE ISSUES

Research from both national and state sources identify the current and future disparity between the supply and demand of registered nurses available and willing to work is different from other cyclical disparities. Structural factors are involved this time - rather than registered nurses preferring to work part time or remain out of the work force entirely. Several principle factors have been identified by the July 2001 report from the United Stated General Accounting Office (GAO), testimony from Joint Commission on Accreditation of Healthcare Organizations (JCAHO) before the Senate Committee on Health Education, Labor and Pensions on May 17, 2001, the FITCH Health Care Special Report of June 27, 2001, the California Scott Commission Report of June 2000, the Center for the Health Professions affiliated with the University of California, San Francisco, and the reports and ongoing data analysis of the California Strategic Planning Committee for Nursing. These factors include:

Increased Demand

- Baby boomers are aging, community based care increasing.
- Hospitalized patients are sicker which increases the demand for registered nurses.

Decreased Supply

- Aging of the current registered nurse workforce.
- Fewer applicants entering nursing programs.
- Increased dissatisfaction with working conditions.

The current impact on the California healthcare delivery system is serious and will worsen by the year 2010. Currently California has the next to lowest number of registered nurses per capita in the United States with 544 registered nurses per 100,000 population. (Nevada just became the lowest because of a significant population increase.). According to the 1997 study of registered nurses with active licenses living in California, 85-89 % are employed in nursing. In December 2000, the California Healthcare Association (CHA) reported the registered nurse vacancy rate for currently funded positions as 12.4%. This is higher than a June 2001 national survey of 715 hospitals conducted by the American Hospital Association (AHA). This survey found that the national vacancy rate was 11 % (CHA 2001, April 25 Press release re SB 317) .

The current shortage of registered nurses in the workforce is both nationwide and worldwide. Some proposals to correct California's shortage include recruiting registered nurses from other states and countries. California has always depended on in-migration of registered nurses from these sources. Over 50% of California licensed registered nurses are educated in other states and countries. Now that other states have high job vacancy rates and lower costs of living than California, it is increasingly difficult to encourage registered nurses to move here. Current

Immigration and Nationalization Services (INS) restrictions make it difficult for international nurses to migrate to the United States. Even those countries that generally provide significant numbers of registered nurses immigrating to California (Philippines, Canada, and England) now have fewer registered nurses entering and passing the National Council Licensing Examination for Registered Nurses (NCLEX-RN) on their first attempt. On average, 47% of international applicants pass the NCLEX-RN examination on the first attempt.

Following is a summary of the principle factors affecting the nursing workforce.

INCREASED DEMAND

Baby boomers will require increased care. This large group of people is reaching their 60's and 70's and will require increased health/illness care in acute care hospitals, outpatient clinics, surgi-centers, long term care settings and homes. This includes both acute episodes of illness and chronic illnesses.

Patients in acute care hospitals are sicker. During the 1980's and the 1990's many hospitals made significant structural changes. These included merging facilities and systems as well as closing facilities. These processes also "down sized" the nursing workforce. In most instances, registered nurse positions were cut and/or filled by licensed vocational nurses (LVNs) or unlicensed assistive personnel (UAPs). Passage of the Balanced Budge Act of 1997 and a decrease in the reimbursement rate for Medicare and Medicaid (Medi-Cal in California) patients also had a profound effect on the monies available for personnel and equipment in hospitals and other parts of the delivery system. The large penetration of the capitated health plans in California (60 - 80 %) also adversely affected the revenue stream of many care-giving systems. As a result, many facilities and home health agencies decreased the number of registered nurses on their staff.

In the late 1990's this trend started to change because of the high acuity and complexity of patients in acute care hospitals and homes. It is increasingly recognized that registered nurses are required to provide care, direct care given by others, and make the critical assessments and judgments necessary to provide needed interventions and inform physicians in a timely manner. Currently, only 60% of registered nurses work in acute hospitals (decreased from 64% in 1997). Increased employment opportunities in home health agencies, clinics and insurance companies where regular work hours and generally less stressful working conditions are attracting registered nurses away from acute hospitals.

DECREASED SUPPLY

Aging of the registered nurse workforce. In California the average age of registered nurses is 47. (*BRN Registered Nurse Survey 1997*). Nationally, the Government Accounting Office (GAO) predicts that by 2010 approximately 40% of the nurse workforce will be 50 years or older. Thus, there will be fewer working years in which many nurses will be physically able to manage the heavy work load and long hours required in direct patient care.

This aging factor is especially evident in nursing faculty where currently 44% are over 50 years and 11% are over 60 years of age. (*BRN Annual School Report*) Of the 1,779 California

nursing faculty identified in 1999, 17 % are expected to retire within 5 years, i.e. by 2004. A 2001 survey conducted by California Strategic Planning for Nursing (CSPCN) of California nursing programs identified 333.5 full time equivalent (FTE) vacant faculty positions over the next two years. Of these, 163.1 FTE will be required for baccalaureate and higher degree programs and 170.4 FTE for associate degree programs.

The American Association of Colleges of Nursing (AACN) notes that the mean age of faculty in 1999-2000 was over 50 years. The AACN study also found that fewer masters and doctoral prepared nurses are selecting nursing education because better salaries can be found as clinical nurse specialists, nurse practitioners, and administrators.

Fewer students are entering nursing programs. This is a nationwide experience as other more lucrative careers are available for women than in the past. Registered nurses are still predominately women (92-95%) although the number of men in the profession is increasing. The image of registered nurses has also been adversely affected by the layoffs in the past, media reports about the long hours and hard work taking care of sick people, and the discouraging comments from registered nurses themselves to those considering the profession. Nationally, the Tri Council (comprised of the American Nurses Association, American Association of Colleges of Nursing, American Association of Nurse Executives, and the National League for Nursing) has developed media campaigns to improve the image, and thus the attractiveness, of the profession.

A private corporation, Johnson and Johnson, has committed financial support for a national media campaign to encourage more people to enter the profession. This campaign demonstrates the many employment opportunities available for registered nurses. The extensive web site (www.discovernursing.com) includes the names of nursing programs nationwide and financial resources. In California, the Coalition for Nursing Careers in California (CNCC) has launched a multifaceted media campaign to demonstrate the value of nursing as a profession. Their website is www.cncc.org/choosenursing. At the same time, the CSPCN is working to secure funds to distribute videos and CD -ROM's to middle schools, high schools, and colleges throughout the state showing the many specialties and employment opportunities for registered nurses. Target audiences include ethnic minorities and men to better reflect California's culturally diverse population.

The absence of openings in nursing programs and the students' educational cost are also deterrents to many students. In San Diego, seven hospitals have pledged money so San Diego State University can increase the number of faculty and thus the number of students they admit annually. Hospitals in other areas have provided funds for many years in a public-private partnership to increase the number of RNs in their areas.

Registered nurses are increasingly dissatisfied with working conditions. A self report survey conducted by ANA in 2001 found that one in three nurses under 30 years of age and two in 10 of all ages plan to leave nursing within three years. Eighty eight percent of the 4,826 respondents reported health and safety concerns influenced their decision about continuing or leaving the profession. Over 70% cited acute and chronic effects of stress and overwork as "one of the top three health and safety concerns". The other two health and safety concerns

cited were disabling back injuries (60%) and contracting HIV or hepatitis from needle stick injuries (45%). Working conditions were cited more than inadequate pay as reasons to leave the nursing workforce. Inadequate staffing, increased workload, inability to provide quality patient care, decreased support staff, increased paperwork, pressure to work 12 hours shifts, mandatory overtime, lack of respect and not valuing registered nurses' knowledge and expertise were frequently stated disincentives.

Research clearly documents the positive impact registered nurses have on patient care. Network, Inc., a hospital and health research organization, conducted a study of the correlation between staffing and quality of care for the ANA in March 2000. This study found that patients have better healthcare outcomes with higher staffing levels. A recent study published in the *New England Journal of Medicine* (May 30, 2002) conducted by an economist at Harvard School of Public Health, identified that for certain aspects of patient care, registered nurses made a difference in safe patient outcomes.

Concerns about patient care and safe staffing ratios were the driving force behind the passage of the California Nurses Association sponsored bill Assemblywoman Kuehl (AB 394, Stats. 1999, c. 945) in 1999. The minimal staffing ratios for selected areas in acute care hospitals proposed by the California Department of Health Services for implementation in January 2003 is the result of this law.

In addition to these factors affecting patient care there are concerns about employee safety and injuries in the work place. The United States Occupational Safety and Health Administration (OSHA) rates nursing as the third most dangerous occupation. Two new studies have recently been published. The first, *Health Care's Crisis: The American Nursing Shortage* (Kimball, O'Neal) was funded by The Robert Wood Johnson Foundation. It emphasized a need to re envision nursing models and work place conditions. The second study was conducted by the Commission of Workforce, a multi-disciplinary task force of the American Hospital Association. This report, *In Our Hands: How Hospital Leaders Can Build a Thriving Workforce,* places nurses at the center of four significant recommendations. These recommendations address hospital leaders and their responsibility in making changes in the work place.

CALIFORNIA INITIATIVES & RESPONSES TO NURSING WORKFORCE ISSUES

In January 2002, Governor Grey Davis announced the Nursing Workforce Initiative. This three year, $60 million project will use federal Workforce Investment Act (WIA) funds to address the nursing shortage in the workforce. This multifaceted initiative includes proposals to enhance nursing education, regional collaboratives, career ladder pilot projects, and workplace reform pilot projects. Emphasis is also placed on standardizing course requirements and prerequisites and streamlining online applications be become licensed as a registered nurse. Other elements include a media outreach activities and an evaluation of the results of these initiatives.

In November 2001, the Board of Registered Nursing established a Nursing Workforce Advisory Committee. This 15 member Committee, composed of representatives of consumers,

workforce planners, nursing education, nursing service, employers, unions, and state agencies, is charged with providing information to the Board members and staff on the many issues affecting the provision of safe, competent nursing care to California residents. The first undertaking of the Advisory Committee has been to make recommendations about the instrument used in surveying a randomized sample of California registered nurses. This survey, which was conducted in 1990, 1993, and 1997, provides data about registered nurse demographics, educational preparation, and workplace location and satisfaction. The data is important to policy makers, employers, educators, and nurses. The next survey will be conducted in 2003.

Since 1999, a study mandated by the Chancellors of the California Community Colleges (CCC) and the California State Universities (CSU) called Intersegmental Major Preparation Articulation Curriculum Taskforce (IMPACT) has been underway. This study affects all areas of study and is aimed at streamlining student articulation between the Community College and State University systems. Nursing programs have been involved in years two and three of the study with emphasis on identifying prerequisite courses to the nursing major.

In addition, program directors of the CSU and faculty of the CCC have been working to make the progression into the nursing major more streamlined. CSU nursing directors have identified eight core courses required for admission to the nursing major. They are currently discussing which nursing content should be in upper division courses so as to facilitate associate degree nurses smooth entrance into the baccalaureate nursing major. Faculty of CCC nursing programs are looking towards developing a more consistent nursing curriculum throughout the system.

Ongoing commitment of California registered nurses to support the educational preparation and progression of associate degree registered nurses through baccalaureate nursing programs is found in the five dollars added to every registered nurses license renewal fee. The Registered Nurse Education Fund was first established in the 1980's. A law enacted in 1999 extended the collection of these monies into perpetuity. In the fiscal year 2000/01, $623,225 was transferred from the Board of Registered Nursing Education Fund to the Health Professions Education Foundation for scholarships and loans to registered nurses seeking their initial nursing education or continuing their education to earn a baccalaureate degree in nursing.

The need for baccalaureate prepared registered nurses was identified in the 1997-98 Employer Survey of Intention to Employ conducted by CSPCN. Employers are demanding more baccalaureate and masters prepared nurses (9% and 10% respectively) and fewer associate degree nurses (a decrease of 6%) because of high patient acuity and complexity. Currently, over 70 % of California educated registered nurses are prepared at the Associate Degree level. Great progress is being made to improve articulation between associate degree and baccalaureate degree nursing programs. Improved articulation, use of web-based courses, and financial support for these working nurses are important to increase the number of baccalaureate and masters educated nurses.
Formal collaborative arrangements between California Community Colleges and California State Universities nursing programs are being reviewed and approved by the BRN. Currently agreements are in place in the Sacramento, Central Valley and Los Angeles areas. These

agreements will increase the number of baccalaureate prepared registered nurses to meet the demands of employers.

These initiatives are all important to reverse the current and projected shortage of registered nurses in the workforce. It takes approximately four to five years to educate a registered nurse: one to two years to complete the science and communication prerequisites and two to three years to complete the nursing major. In California there are currently 98 prelicensure programs and new programs are being implemented or under review by the BRN.

California legislative response has also been significient. Several bills have been introduced to address the nursing workforce/shortage issues and legislative hearing have been conducted. Most of the bills have been modified substantally because of the current state budget deficit. These bills include SB 317 (Ortiz), AB 338 (Correa) and SB 457 (Scott).

The federal Congress has also expressed its concern about the nationwide nursing shortage. Several bills have been introduced. These include: S706 and HR 1436, The Nurse Reinvestment Act which would establish a National Nurse Services Corps and HR 1897, The Nurses of Tomorrow Act of 2001 which provides money to address the issues of nurse recruitment and retention, educational expenses, and loan support.

Concerted efforts by state and federal policy makers, employers, nursing programs, and regulatory agencies are needed to address current and future registered nurse workforce disparities and to provide more California educated registered nurses to meet the healthcare needs of our residents.