

SC DEPARTMENT OF LABOR, LICENSING AND REGULATION
110 CENTERVIEW DRIVE, COLUMBIA, SOUTH CAROLINA 29210

NOVEMBER 19-20, 2009 BOARD OF NURSING MEETING MINUTES

President Lewis called the Board of Nursing meeting to order at 8:30 a.m. on November 19, 2009. Public notice of this meeting was properly posted at the board offices as well as their Web site and provided to all requesting persons, organizations, and news media in compliance with the South Carolina Freedom of Information Act. A quorum was present at all times. The Board's mission was read.

CALL TO ORDER
PLACE OF MEETING
& FOIA COMPLIANCE

C. Lynn Lewis, RN, EdD, MHS, President
Congressional District 3 Present

BOARD MEMBERS
PRESENT & VOTING

Sylvia A. Whiting, PhD, APRN-BC, Vice-President
Congressional District 1 Present

Trey Pennington, MBA, MS, Secretary
Public Member Present

Carrie H. James, RN, MSN, CNA-BC, CCE
Congressional District 6 Present

Rose Kearney-Nunnery, RN, PhD, CNE
Congressional District 2 Present

Brenda Y. Martin, RNC, MN, CNA
Congressional District 5 Excused

One Registered Nurse Vacancy- Congressional District 4
Two Licensed Practical Nurse Vacancies- Regions I & II
One Public Member Vacancy

Rion Alvey, Asst. Dep. Director, Office of Health & Medical Professions
Joan Bainer, RN, MN, NE BC, Board Administrator
Nancy Murphy, RN, MS, BC, CPM, Program Nurse Consultant-Education

STAFF MEMBERS
PRESENT &
PARTICIPATING IN
CERTAIN AGENDA
ITEMS

Sheridon Spoon, Assistant General Counsel, Office of General Counsel
Jocelyn Andino, Assistant General Counsel, Office of General Counsel

Dwight Hayes, Legal Counsel, Office of Licensure and Compliance
Kathy Meadows, Chief Inv., Office of Investigations & Enforcement

Gwendolyn Green, Hearing Counsel

The November 19, 2009 Board of Nursing meeting agenda was presented to the Board for review and approval.

AGENDA APPROVAL

A motion was made by Sylvia Whiting to approve the November 19, 2009 Board of Nursing meeting agenda as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

The following items were presented on the November 19, 2009 Consent Agenda for Board for approval.

APPROVAL OF
CONSENT AGENDA

For Information: NCLEX RN & PN Summary Statistics for 07/01-09/30/09
For Information: Combining Competency & Criminal Background Check Audits
For Action: MA-C / CNA Fiscal Feasibility for Proposed Registration
For Action: T.R.E.E. – Approval of In-house Continuing Education

A motion was made by Sylvia Whiting to approve the November 19, 2009 Consent Agenda with the removal of the Requirement for APRN Practice as Demonstration of Competency. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

The minutes for the July 23, 2009 and September 24, 2009 Board of Nursing meetings were presented for Board review and approval.

APPROVAL OF
MINUTES

A motion was made by Sylvia Whiting to approve the minutes for the July 23, 2009 and September 24, 2009 Board of Nursing meetings with editorial changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

At the September 2009 meeting, Carrie Houser James and Rose Kearney-Nunnery volunteered to serve on the 2010 Board Officers Nominating Committee. Ms. James served as chair. Ms. James submitted the following slate of officers for consideration: Lynn Lewis to continue as President, Sylvia Whiting to continue as Vice-President and Trey Pennington to continue as Secretary.

REPORT OF 2010
BOARD OFFICERS
NOMINATING
COMMITTEE

A motion was made by Trey Pennington to vote on each officer individually. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to re-elect Trey Pennington as Board Secretary. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to re-elect Sylvia Whiting as Board Vice-President. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Carrie Houser James to re-elect Lynn Lewis as Board President. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

At the August 2009 Delegate Assembly Meeting, the National Council State Boards of Nursing requested that every state complete two Taxonomy of Error, Root Cause Analysis and Practice Responsibility (TERCAP) cases to facilitate their research. The TERCAP instrument to be completed by an investigator includes information such as: time and shift during which the incident occurred, staffing patterns, years of experience, type of degree, acuity level of patient and diagnosis. This information would not only apply to TERCAP, and would also facilitate the overall investigation process.

TERCAP

A motion was made by Rose Kearney-Nunnery to approve completing TERCAP tool for two cases in the next 90 days with feedback from investigator to Administrator. Trey Pennington seconded the motion. The motion carried

MOTION

unanimously.

The Board reviewed information from the March 1999 meeting regarding the present Citation by Year for the National Council Licensure Examination (NCLEX) Passing Rate Deficiencies Process along with the currently approved NCLEX citation letters.

CITATION BY YEAR -
NCLEX PASSING
RATE DEFICIENCY
PROCESS

A motion was made by Sylvia Whiting to approve suggested minor editorial changes to the initial National Council Licensure Examination (NCLEX) passing rate deficiency citation letters. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to approve suggested minor editorial changes to the National Council Licensure Examination (NCLEX) passing rate deficiency citation letters regarding a required appearance before the Board. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

At its March 2005 meeting, the Board voted to approve the University of South Carolina – Columbia’s request for Deborah J. Sink (McQuilkin) to teach provided Ms. Sink agree to begin her master’s or doctorate degree program within three years as recommended by the Advisory Committee on Nursing. At its July 2009 meeting, the Board voted to defer action pending receipt of National Council of State Boards of Nursing model rules and to continue the waiver through December 2009 with discussion at the November 2009 meeting.

UNIVERSITY OF
SOUTH CAROLINA –
COLUMBIA FACULTY
REQUEST

A motion was made by Rose Kearney-Nunnery to defer decision on Deborah McQuilkin until the January meeting in order to have further detail on plans and progress regarding a graduate nursing credential, what her career path is determined to be and anticipated completion. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to grant an extension of the exception for the spring semester for teaching. The motion did not receive a second.

MOTION

A motion was made by Rose Kearney-Nunnery that at the January Board meeting, that Ms. McQuilkin provide the Board with a definitive and realistic plan for completion of a graduate nursing credential in order to continue teaching as a nursing faculty member or present her plans to become an interdisciplinary faculty member. Lynn Lewis offered a friendly amendment that the graduate credentials meet the regulatory requirements of the Board of Nursing. Rose Kearney-Nunnery accepted the friendly motion that the graduate credential be in nursing and meets the regulatory requirement. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

James Walker, Executive Director of the South Carolina Hospital Association (SCHA) appeared along with Henry Stubbs of the South Carolina Organization of Nurse Leaders (SCONL) to discuss nursing workforce issues. Discussion included but was not limited to nursing employment data, newly licensed graduates having difficulty obtaining employment; some newly licensed graduates not accepting jobs for certain shifts or to work in rural areas; longer life spans; increase in average age of nurses; nurses delaying retirement due to the economy; and funding for more faculty including scholarships from businesses.

WORKFORCE
UPDATE

Statistics regarding the number of nurses and other healthcare participants in the Recovering Professional Program (RPP) were provided to the Board.

RPP STATISTICS

A motion was made by Carrie Houser James to defer review of the Recovering Professional Program statistics to the May 2010 Board Meeting. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

The Board reviewed the Disciplinary Review Committee (DRC) Meeting Minutes from August 27, 2009. Ms. Bainer reported that Christopher Haviland is currently orienting with the DRC.

DISCIPLINARY
REVIEW COMMITTEE

MOTION

A motion was made by Rose Kearney-Nunnery to approve the August 27, 2009 Disciplinary Review Committee (DRC) Minutes as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

Ms. Bainer presented proposed changes to the Disciplinary Sanctions Guidelines Chart. The Resolution Committee regularly reviews the chart. Proposed changes presented included adding or increasing civil penalties for drug diversion, prescription fraud, positive drug screens, reporting to work under the influence of alcohol or drugs, driving under the influence –second offense, medication theft, unauthorized use of a prescription, and practicing outside the scope of practice. Other proposed changes included adding specific educational courses for substandard patient care as well as for convictions.

REVISION TO
DISCIPLINARY
SANCTIONS
GUIDELINES CHART

A motion was made Rose Kearney-Nunnery to approve the changes to the Disciplinary Sanctions Guidelines Chart. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

The Board was provided with the Resolutions Committee Report with recommendations for cases reviewed at its September 22, 2009 and October 21, 2009 meetings utilizing the Board approved Disciplinary Sanctions Guidelines.

RESOLUTION
COMMITTEE
REPORT & REQUEST

MOTION

A motion was made by Rose Kearney-Nunnery to approve the Resolutions Committee Report and Recommendations for Consent Agreements. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to approve the Resolutions Committee Report and Recommendations for Dismissals with the exception of Key #50. Sylvia Whiting seconded the motion. The motion carried unanimously.

A motion was made by Sylvia Whiting to approve the Resolutions Committee Report and Recommendation for Dismissal in Key #50. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

Ms. Meadows stated that currently cases go to the Resolutions Committee within 90-120 days. Her goal is to have all cases go to the Committee within 90 days or less.

Public and private consent agreements were provided the Board with for their review and consideration. These consent agreements were signed by respondents in lieu of disciplinary hearings. The Board may accept, amend, or

CONSENT
AGREEMENTS

reject the agreements. Respondents may sign the consent agreement amended by the Board but still have the right to request a panel hearing in lieu of signing the amended agreement.

A motion was made by Rose Kearney-Nunnery to accept the public consent agreements for case numbers 2009-379, 2008-189, 2009-299, 2009-273, 2008-412, 2009-207, 2009-134, 2009-116, 2009-215, 2009-266, 2009-376, 2009-88, 2009-140, 2009-317, 2009-213, 2009-101, and 2009-182 as well as voluntary surrenders in Cases # 2009-129, 2009-174, 2009-105, 2009-418, as presented. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to reject the public consent agreement for case number 2009-102 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to reject the public consent agreement for case number 2009-261 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to accept the public consent agreement in case number 2008-355 as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to reject the public consent agreement for case number 2009-208 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept the public consent agreement for case number 2009-256 as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept the voluntary surrender for case number 2008-224 as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to reject the public consent agreement for case number 2009-249 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to reject the public consent agreement for case number 2008-401 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept the public consent agreement for Case # 2008-360 as presented. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to accept the public consent agreement in case number 2009-182 as presented. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept private consent agreements in case numbers 2008-516, 2008-497, 2009-265, 2007-450, 2009-205, 2008-317, 2009-231, 2009-278, 2008-512, 2009-255, 2009-112, 2009-104,

MOTION

and 2009-173 as presented. Sylvia Whiting seconded the motion. The motion carried unanimously.

A motion was made by Rose Kearney-Nunnery to reject the private consent agreement for case number 2008-423 with suggested changes. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to reject the private consent agreement for case number 2000-33 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to accept the private consent agreement for case number 2000-167 with suggested changes. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept public and private consent agreements for three licensure applications and four cases of noncompliance with a Board order. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept a private consent agreement in a case of noncompliance with a Board order. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

To determine appropriate sanctions, the Board reviewed a Hearing Panel Report along with their transcript and exhibits as well as memoranda of agreement stipulating to violations of the Nurse Practice Act. Respondents appeared before the Board to respond to questions regarding their panel report or memorandum of agreement. Representatives from the Recovering Professional Program (RPP) were present to respond to questions from the Board in cases regarding their clients.

HEARINGS

PANEL REPORTS/

Panel Reports

The Board reviewed a Hearing Panels' Report, transcript and exhibits to determine appropriate. Recovering Professional Program representatives from were present to respond to questions in cases regarding their clients.

In Case # 2007-377, a panel hearing was held on June 9, 2009. Respondent appeared before the Board but was not represented by legal counsel. Respondent was aware of her right to legal counsel and waived that right. The Hearing Panel recommended indefinite suspension of Respondent's license until such time as Respondent petitions and appears before the Board.

A motion was made by Sylvia Whiting to go into executive session in Case #2007-377 for the purposes of receiving legal counsel. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to leave executive session. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Carrie Houser James in Case #2007-377 to place Respondent's license on two years probation, to have a narcotics restriction during the first year of probation and for the narcotics restriction to be at the director of nursing's discretion during the second year of probation, practice shall

MOTION

be in a Board approved work setting under on-site/on-shift registered nurse supervision, no home based care, agency or telenursing or telehealth, quarterly employer reports, Respondent must complete Board approved courses in legal aspects and ethics and pay a civil penalty of \$750 within 90 days of the order. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

Memoranda of Agreement

In Case #2008-208, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared and was represented by Anne Bell Fant, Esquire.

A motion was made by Rose Kearney-Nunnery to go into executive session in Case #2008-208 for the purposes of receiving legal counsel. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Trey Pennington to leave executive session. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery in Case #2008-208 to issue a private reprimand and require Respondent to complete a Board approved documentation course. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-180, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared and was represented by Jennifer Breaux, Esquire.

A motion was made by Rose Kearney-Nunnery in Case #2008-180 to issue a private reprimand. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-408, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared before the Board but was not represented by legal counsel.

A motion was made by Sylvia Whiting in Case #2008-408 to issue a private reprimand and require Respondent to complete Board-approved courses in legal aspects and ethics and to pay a civil penalty of \$150.00. The motion did not receive a second. The motion failed.

MOTION

A motion was made by Rose Kearney-Nunnery in Case #2008-408 to issue a private reprimand, require Respondent to complete Board-approved courses in legal aspects and documentation within six months. Trey Pennington seconded the motion. The motion carried with an abstention by Sylvia Whiting.

MOTION

In Case #2008-142, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared before the Board but was not represented by legal counsel.

A motion was made by Rose Kearney-Nunnery to go into executive session in Case #2008-142 for the purposes of receiving legal counsel. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to leave executive session. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery in Case #2008-142 to issue a public reprimand, require Respondent complete Board approved courses in legal aspects and medication errors and to pay a civil penalty of \$2,500 within six months. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-434, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared before the Board and was represented by D. Randle Moody, II and Ella S. Barbery, Esquire.

A motion was made by Rose Kearney-Nunnery to go into executive session in Case #2008-434 for the purposes of receiving legal counsel. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Trey Pennington to leave executive session. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Carrie Houser James in Case #2008-434 to place Respondent's license on one year probation, practice shall be in a Board approved work setting under on-site/on-shift registered nurse supervision, no home based care, agency or telenursing or telehealth, quarterly employer reports and completion of Board approved courses in legal aspects, documentation and ethics within six months. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously

MOTION

In Case #2009-178, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared before the Board but was not represented by legal counsel. Respondent waived thirty day notice of hearing.

A motion was made by Rose Kearney-Nunnery in Case #2009-178 to place Respondent's license on two years probation, Respondent was continue in the Recovering Professional Program (RPP), practice shall be in a Board approved work setting under on-site/on-shift registered nurse supervision, no home based care, agency or telenursing or telehealth, access to narcotics will be restricted if Respondent changes employers, quarterly employer reports and completion of a Board approved ethics course within six months. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-524, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared before the Board but was not represented by legal counsel.

A motion was made by Rose Kearney-Nunnery in Case # 2008-254 to issue a private reprimand, require Respondent to complete Board approved courses in legal aspects, medication errors and ethics and to pay a \$500 fine within ninety days. Sylvia Whiting seconded the motion. The motion carried unanimously

MOTION

A motion was made by Trey Pennington to adjourn the board meeting at 5:40 p.m. on November 19, 2009. Carrie Houser James seconded the motion. The motion carried unanimously.

ADJOURNMENT