

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

MAY 14-15, 2009 BOARD OF NURSING MEETING MINUTES

President Lewis called the May14-15, 2009 Board of Nursing meeting to order at 8:30 a.m. on May 14, 2009 and at 8:30 a.m. on May 15, 2009. Public notice of this meeting was properly posted at the board offices 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 MemberExcused Absence

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 5Excused Absence

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

Joan Bainer, RN, MN, NE BC, Board Administrator
Nancy Murphy, RN, MS, BC, CPM, Program Nurse Consultant-Education
Phyllis Raynor, RN, MSN, Program Nurse Consultant - Practice

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 Investigator, Office of Investigations & Enforcement

Gwen Green, Hearing Counsel

The May 14-15, 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 May 14-15, 2009 Board of Nursing meeting agenda as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

The following informational items were presented on the Consent Agenda for Board for approval.

APPROVAL OF
CONSENT AGENDA

For Information: NCLEX RN/PN Summary Statistics for Jan. 1 –Mar.31, 2009

For Information: Response to 2008 NCLEX Passing Rate Deficiency Citation

1. *Aiken Technical College - ADN*
2. *Francis Marion University - BSN*
3. *Piedmont Technical College - ADN*
4. *South Carolina State University - BSN*
5. *Spartanburg Community College - ADN*

For Information: Worksite Information Sheet & Approval Form

For Information: Online Application

For Information: Veterinary Medical Examiners Bd Letter-“Nurse” in VMEPA

For Information: Use of Dialectical Behavior Therapy (DBT)–Sheheen

A motion was made by Sylvia Whiting to approve the May 14-15, 2009 meeting consent agenda as presented. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

The March 26-27, 2009 Board of Nursing meeting minutes were presented for Board review and approval.

APPROVAL OF
MINUTES

A motion was made by Sylvia Whiting to approval of the March 26-27, 2009 Board of Nursing Meeting Minutes with changes. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

Nancy Murphy, Nurse Consultant for Education will receive the National Council of State Boards of Nursing Exceptional Contribution Award at their Mid-Year Meeting in August. This award is given for significant contribution by board staff.

ANNOUNCEMENT

Ms. Bainer presented proposed changes to the Disciplinary Sanctions Guidelines Chart. Changes included clarifying prescription fraud to include controlled substances with dependency as well as prescription fraud with no dependency, adding possession of controlled or uncontrolled substances without authority, adding failure by advanced practice registered nurses (APRN) to notify Board of change in preceptor information or practice site and adding Nurse Practice Act citations for each violation. Further discussion included but was not limited to other Department of Labor, Licensing and Regulation (LLR) licensing boards adjusting the document for use in their areas, other boards of nursing showing interest in our form, National Council of State Boards of Nursing (NCSBN) courses that may be appropriate for APRN.

REVISION TO
DISCIPLINARY
SANCTIONS
GUIDELINES CHART

A motion was made by Rose Kearney-Nunnery to approve the changes to the Disciplinary Sanctions Guidelines Chart with the addition of the National Council of State Boards of Nursing (NCSBN) Disciplinary Actions – What Every Nurse Should Know to the comment section as a preferred class for advanced practice registered nurses (APRN). Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

Ms. Bainer provided the Board with a copy of the fiscal impact study for possible regulation of Medication Assistants-Certified (MA-C) which was supplied to the LLR Budget Officer. Discussion included but was not limited to the number of people who would fall under this registration, limits on disciplinary actions that

FISCAL IMPACT/
FEASIBILITY STUDY-
MEDICATION
ASSISTANT –

could be taken and other agencies who currently work with the certified nursing assistants interested in the Board of Nursing regulating CNA as well as MA-C.

CERTIFIED (MA-C).

The Board was presented with changes to the Guidelines for Approval of Licensure Recommendations. Changes were made to comply with the Compact and Office of Licensure and Compliance (OLC) process changes. Discussion included but was not limited to schools conducting criminal background checks (CBC) with involvement of facilities in more severe or complicated cases which has decreased the number of examination candidates with serious criminal background problems, concerns about elder abuse included in domestic violence charges, cases under items a - j of #3 are reviewed by the administrator, use of disciplinary sanctions guidelines for terms and conditions of licensure, other licensing boards' processes for "yes" answers on applications, reports of licensure approvals will be generated by new system in fall, need for report of approvals at the next meeting, and need for Board to ratify licensure decisions.

REVISION TO POLICY
-LICENSURE
RECOMMENDATION
APPROVAL

A motion was made by Rose Kearney-Nunnery to add "are considered in terms of recency and severity" under #3 of the Guidelines for Approval of Licensure Recommendations. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to delete the first sentence in #6 of the Guidelines for Approval of Licensure Recommendations and reword the last sentence to read "Licensure decisions are provided for information to the full Board at its next regular meeting for ratification." Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to amend #5 of the Guidelines for Approval of Licensure Recommendations by adding a sentence requiring applicants whose convictions do not fall within the parameters listed must make a personal appearance before the Board. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to approve the Guidelines for Approval of Licensure Recommendations as amended. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

The Board was provided with the Resolutions Committee Report and Recommendations for cases reviewed since the January 2009 Board meeting utilizing the Board approved Disciplinary Sanctions Guidelines.

RESOLUTION
COMMITTEE REPORT
& REQUEST

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 Recommendations for Dismissals. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to approve the Resolutions Committee Recommendations for Dismissals with Letters of Concern. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

Forest E. Mahan, Vice President for Academic Affairs and Theresa Wright, Nursing Chair at Northeastern Technical College appeared before the Board to provide an update on their associate degree nursing (ADN) program which was granted initial approval by the Board in 2008. They provided a chart indicating the administrative changes made since the initial approval.

NORTHEASTERN
TECHNICAL COLLEGE

A motion was made by Rose Kearney-Nunnery to accept the information on administrative changes from Northeastern Technical College as information. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

No official action required was required by the Board on this matter.

At its July 2007 meeting, the Board of Nursing granted initial approval status for the Denmark Technical College Practical Nursing Program. The first class from that program graduated in July 2008. The Board was provided with a copy of the February 2009 Site Survey Report as well as the college's response was provided to the Board for their review. Representatives from the school were present to discuss the materials and to answer questions from the Board.

DENMARK TECHNICAL
COLLEGE INITIAL TO
FULL PROGRAM
APPROVAL

A motion was made by Rose Kearney-Nunnery to grant full approval of the Denmark Technical College Practical Nursing Program for five years. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

Aiken Technical College submitted a request employ an adjunct faculty member who holds an associate degree in nursing, baccalaureate degree in chemistry and a masters degree in business administration. This proposed faculty member would teach Fundamentals of Nursing Care as well as be a clinical adjunct instructor for the practical nursing program for Medical/Surgical Nursing I and II. Representatives from the school were present to discuss the materials and to answer questions from the Board.

AIKEN TECHNICAL
COLLEGE REQUEST
FOR FACULTY
APPROVAL

A motion was made by Rose Kearney-Nunnery to deny Aiken Technical College's request to employ an adjunct faculty member without a baccalaureate or masters degree in nursing. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

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 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.

CONSENT
AGREEMENTS

A motion was made by Rose Kearney-Nunnery to accept the public consent agreements for Cases #2005-12, #2008-45, #2007-394/2008-136, #2006-504, #2009-49, #2007-382, #2008-331, #2008-424, #2008-530, #2008-411, #2008-405, #2008-496, #2008-578, #2008-561, #2008-288, #2008-358, #2008-581, #2006-33, #2008-385, #2008-202/ #2008-370, #2008-257, #2006-186/ #2007-332, #2007-452 as well as a voluntary surrender as presented. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Lynn Lewis to amend and/or correct public consent agreements for Cases #2009-74, #2009-44, #2008-378, #2008-533, #2007-469 and #2008-510 as presented. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to amend and/or correct the private consent agreement for Case #2008-359. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept a private consent agreement in a Cases #2008-407, #2008-369, #2008-437, #2007-399, #2008-268, #2007-409, #2007-359, #2007-431, #2007-265, #2008-429, #2008-49, #2008-46, #2008-534 and #2006-269 as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept public consent agreements for a licensure application and three cases of noncompliance with a Board order. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept the public consent agreements for Cases #2008-188, #2008-345, #2007-429, #2008-290, #2008-335, #2008-385 and #2008-522 as well as a private consent agreement for unlicensed practice as presented. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to amend the public consent agreement for Case #2007-224. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

Hearings before the Board of Nursing.

HEARINGS

Panel Reports

PANEL REPORTS/

The Board reviewed Hearing Panels' Reports, transcripts and exhibits to determine appropriate sanctions. Respondents appeared before the Board to respond to questions regarding their panel report. Respondents were aware of their right to legal counsel. Recovering Professional Program (RPP) representatives from were present to respond to questions in cases regarding their clients.

A motion was made by Rose Kearney-Nunnery in Cases #2005-65 / #2006-227 to accept the Hearing Panel's Findings of Facts, Conclusions of Law and Recommendation to indefinitely suspend Respondent's license and requiring Respondent personally appear before the Board to seek reinstatement. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting in Cases #2007-60 to accept the Hearing Panel's Findings of Facts, Conclusions of Law and Recommendation to continue the suspension of Respondent's license, Respondent must comply with March 2008 order, Respondent must re-enroll with RPP, receive an evaluation with results provided to the Board and to require Respondent personally appear

MOTION

before the Board to seek reinstatement. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Carrie Houser James in Cases #2003-518 to accept the Hearing Panel’s Findings of Facts, Conclusions of Law and Recommendation to revoke Respondent’s license. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery in Cases #2007-339 / #2008-4 to accept the Hearing Panel’s Findings of Facts, Conclusions of Law and Recommendation to indefinitely suspend Respondent’s license with the provision for a stay if Respondent re-enrolls with the Recovering Professional Program (RPP). Sylvia Whiting seconded the motion. The motion carried unanimously.

Memoranda of Agreement (MOA)

MEMORANDA OF AGREEMENT

The Board reviewed memoranda of agreement (MOA) stipulating to violation of the Nurse Practice Act to determine appropriate sanctions. Respondent appeared before the Board to respond to questions regarding the MOA. Recovering Professional Program (RPP) representatives from were present to respond to questions in cases regarding their clients if appropriate.

In Case #2007-137, Respondent signed a Memorandum of Agreement, waived right to a panel hearing and right to an attorney. Respondent appeared before the Board without legal counsel.

MOTION

A motion was made by Sylvia Whiting to go into executive session for the purpose of receiving legal counsel in Case #2007-137. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to return to the hearing in Case #2007-137. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously. No actions were taken during executive session.

MOTION

A motion was made by Sylvia Whiting to issue a public reprimand. Rose Kearney-Nunnery seconded the motion. The motion carried with one nay vote by Carrie Houser James.

FRIDAY, MAY 15, 2009

Ms. Bainer reported that she was the moderator for the National Council of State Boards of Nursing (NCSBN) IT Summit. Staff from the Office of Licensure and Compliance (OLC) attended the summit. Ms. Bainer shared that a great deal of information was shared during this meeting to include but not limited to information on Fraud and Imposter Tracking System (FITS), QuickConfirm and NURSYS.

NCSBN IT SUMMIT

The Board reviewed the National Council of State Boards of Nursing (NCSBN) Mission, Vision and Values.

NCSBN MISSION & GOALS

Ms. Bainer reported she has been working on the Legal Aspects Workshop as part of her Institute of Regulatory Excellence project. As part of that project,

T.R.E.E

she is looking at other ways to provide the information such as web-streaming which she is discussing with the Area Health Education Consortium (AHEC). Attendance would be taken at the beginning and end to assure participants stayed for the entire program. The title of the new program will be T.R.E.E. (Teaching Regulation through Education and Experience.) Ms. Bainer is modeling the program in accordance with SC Nurses Association requirements in hopes of later obtaining continuing education credit for nurses completing the program.

Ms. Bainer shared PowerPoint presentation slides from her Chemical Dependency presentation. These slides have been utilized in training investigators. Discussion included but was not limited to updating references where there are newer references, keeping standard references, and working with the Recovering Professional Program (RPP) to use same definitions.

CHEMICAL
DEPENDENCY

The Board discussed the National Council of State Boards of Nursing (NCSBN) Transition to Practice Model. Discussion included but was not limited to importance to students to receive more clinical experience, benefits of extended orientation period for new graduates, and fiscal/physician impact of the model in long term care and smaller or rural facilities.

TRANSITION TO
PRACTICE

The associate degree in nursing (ADN) to masters degree in nursing (MSN) and baccalaureate in nursing (BSN) to doctorate in nursing practice (DNP) programs do not lead to initial licensure. Discussion included but was not limited to the need to counsel nurses entering nursing at the practical nursing and ADN levels to not consider this a the final step in their career, encouraging BSN and MSN prepared nurses to continue their education, and statutory requirement to have a masters degree for advanced practice registered nurses (APRN) licensure.

ADN TO MSN / BSN
TO DOCTORAL
DEGREE

A motion was made by Carrie Houser James to adjourn the board meeting at 11:05 a.m. on May 15, 2009. Sylvia Whiting seconded the motion. The motion carried unanimously.

ADJOURNMENT

Respectfully Submitted,
Dorothy M. Buchanan, APM, Assistant to the Administrator