

SC DEPARTMENT OF LABOR, LICENSING AND REGULATION
110 CENTERVIEW DRIVE, ROOM 108, COLUMBIA, SOUTH CAROLINA 29210

SEPTEMBER 24, 2009 BOARD OF NURSING MEETING MINUTES

President C. Lynn Lewis called the Board of Nursing meeting to order at 8:30 a.m. on Thursday, September 24, 2009. Public notice of this meeting was 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. It was noted that a quorum was present. The Board's mission was read.

CALL TO ORDER
PLACE OF MEETING
& FOIA COMPLIANCE

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

BOARD MEMBERS
PRESENT & VOTING

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

Trey Pennington, MBA, MS, Secretary
Public MemberPresent

Carrie H. James, MSN, RN, CNA-BC, CCE
Congressional District 6 Present (In -8:45 a.m.)

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

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

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

Joan Bainer, MN, RN, NE BC, Board Administrator
Nancy Murphy, MS, RN, 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 Investigator, Office of Investigations & Enforcement
Gwendolyn Green, Hearing Counsel

The September 24-25, 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 September 24-25, 2009 Board of Nursing meeting agenda as presented. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

APPROVAL OF
CONSENT AGENDA

The following informational items were presented on the Consent Agenda for Board for approval or acceptance as information.

- For Information: Pain Awareness Month Proclamation & Press Release
- For Information: QuickConfirm and LLR Licensee Lookup
- For Information: NCLEX RN/PN Summary Statistics for 04/01-06/30/09
- For Information: Elections from NCSBN Annual Meeting
- For Approval: York Technical College-Request to Continue ADN Distributed Learning Program/ Increase Enrollment
- For Information: RN/LPN Working as CNA/UAP – Title and ID Badge
- For Information: Paperless Licensure in 2010

A motion was made by Sylvia Whiting to approve the September 24-25, 2009 consent agenda as presented. Rose Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

Ms. Bainer reported on her follow up with the Practitioner Remediation and Enhancement Partnership (PREP). Kathy Meadows identified the main sources of complaints. Ms. Bainer sent letters to those facilities regarding the PREP program. She explained that this program is not in lieu of reporting. One facility has signed a contract. Some facility attorneys are reluctant to sign these agreements. Events involving death or drugs are not eligible for PREP participation. Board discussion included but was not limited to need for follow up, need for marketing, courses available online, opportunities to take more courses online or via web cast, practice breakdown, increased number of licensed practical nurses (LPN) disciplinary cases, not having the two LPN positions on the Board filled, and the LPN Decision Tree developed by the Nursing Practice and Standards Committee.

PREP

Rose Kearney-Nunnery and Carrie James volunteered to serve on the Nomination Committee for 2010 Board Officers. Ms. James will serve as committee chair. A report will be presented at the November meeting for Board consideration and vote.

NOMINATION
COMMITTEE

Board President Lynn Lewis and Board Member Rose Kearney-Nunnery attended the 2009 National Council of State Boards of Nursing (NCSBN) Annual Meeting and Delegate Assembly along with staff members Joan Bainer, Nancy Murphy and Phyllis Raynor. Discussion included but was not limited to change in the way the meeting materials were provided in order to be “green”, continued competency, unopposed nominations and elections, amount of time required to serve in NCSBN leadership positions or committees, Compact member states discussed the need for consistency for chemical dependency programs across the states and Taxonomy of Error, Root Cause Analysis & Practice Responsibility (TERCAP).

2009 NCSBN
ANNUAL MEETING /
DELEGATE
ASSEMBLY

Dr. Lewis reported that she had attended the NCLEX Invitational which is held every two years. She encouraged board members and nursing education program to attend this meeting.

The Board congratulated Nancy Murphy on receiving the National Council of State Boards of Nursing (NCSBN) Exceptional Contribution Award.

After discussion regarding the NCSBN Annual Meeting and Delegate Assembly was completed and prior to beginning appearances, a motion was made by Rose Kearney-Nunnery to go into executive session 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

James Rund, President Charleston Campus ECPI College of Technology, Barbara Larar, Vice President, and Sharon Farrenkopf Associate Dean of the School of Health Science with the Medical Careers Institute, ECPI College of Technology appeared before the Board to answer questions regarding their Feasibility Study to establish a practical nursing program in Charleston. The Board discussed and asked questions of the ECPI College of Technology representatives regarding their Feasibility Study.

ECPI COLLEGE OF
TECHNOLOGY

A motion was made by Sylvia Whiting to approve the proposed ECPI College of Technology -Charleston Campus Practical Nursing Program for development. Carrie Houser James seconded the motion. The motion carried with one abstention by Rose Kearney-Nunnery.

MOTION

A motion was made by Sylvia Whiting to have the site survey team consist of the Board administrator, staff and a Board member. The motion carried with one abstention by Rose Kearney-Nunnery.

MOTION

Practical Nursing Program Site Survey Report

At its July 2006 meeting based on the June 2006 site survey, the Board voted to continue full approval for the Piedmont Technical College (PTC) Practical Nursing (PN) program for three years. At its July 2007 meeting, the Board voted to approve the PTC curriculum changes as submitted. A site survey was conducted in June 2009 and the report provided to the Board.

PIEDMONT
TECHNICAL
COLLEGE

Estell Martin, Interim Department Head of Nursing and Rosalie Stevenson, Consultant to the Vice President of Educational Affairs at PTC appeared to respond to questions from the Board regarding the site survey report. PTC representatives answered questions regarding the report and their response materials. The department head changed after the site survey and information was provided to the Board for that change.

A motion was made by Sylvia Whiting to grant full program approval to the Piedmont Technical College Practical Nursing program for five years. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

Dr. Lewis recused herself during this discussion due to geographic proximity and relationship between their schools. Sylvia Whiting presided during this item.

CLEMSON
UNIVERSITY

Rosanne Pruitt, Professor and Director, School of Nursing and Associate Dean of Health, Education and Human Development at Clemson University appeared before the Board via video-teleconferencing to answer questions regarding her request to hire someone as clinical faculty who is three months short of the

requirement for two years experience in nursing.

A motion was made by Rose Kearney-Nunnery to approve Clemson University hiring Allison Honea Waggoner as a clinical instructor in maternal child health. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

The Board was provided with a report of the number of cases and average days for resolution from 2006 through present. It was noted that the chart reflects a significant decrease in the number of days to resolution. Kathy Meadows, Chief Investigator, Office of Investigations and Enforcement, reported that she is working to have the average number of days to resolution down to 90 days or less. A special investigative unit, headed up by Ron Cook, has been set up to handle drug related cases. Mr. Cook reported to the Board that the initial case backlog has been resolved and they are working toward the same resolution goals as Ms. Meadows.

STATUS OF
DISCIPLINARY CASES
UNDER
INVESTIGATION

Robert Ball, MD, MPH, FACP and Jane Richter, RN, MSN of the Department of Health and Environmental Control appeared before the Board to provide an update on H1N1. Dr. Ball is also a member of the Board of Medical Examiners. The presentation and discussion included but was not limited to estimated impact on South Carolina, ethical issues and concerns for healthcare professionals, standards of care, pandemic model of care to treat those who have best chance of recovery first, disaster triage, allocation of medical equipment such as ventilators, and the proposed South Carolina Pan Flu Clinical Practice Guidelines. Dr. Ball would like for the Board of Nursing to consider adopting the South Carolina Pan Flu Clinical Practice Guidelines at a later date.

H1N1 REPORT

Cherie Crowley, Diversion Supervisor for the U.S. Drug Enforcement Agency appeared before the Board to discuss diversion of drugs by medical professionals. Ms. Crowley has been speaking with each of the healthcare licensing boards regarding diversion and abuse of prescription medications. Ms. Crowley's presentation and Board discussion included but was not limited to the working relationship with the Department of Labor, Licensing and Regulation investigation unit; quickly increasing prescription drug abuse which is becoming a larger problem than illegal drugs; commonly abused prescription medications; groups of individuals obtaining prescriptions and selling them to "dealers;" individuals selling hospice patients medications; lack of knowledge by lay people of side effects of prescription medications. Further discussion included but was not limited to the expanded use of methadone in areas other than addiction treatment; continued abuse of hydrocodone which is still the most abused medication with oxycodone still increasing; nurse practitioners being careful about the prescribing of pain medications; as well as nurses and others feeling comfortable reporting suspected over prescribing of controlled substances.

DIVERSION BY
MEDICAL
PROFESSIONALS

The Board was provided with the Resolutions Committee Report and Recommendations for cases utilizing the Board approved Disciplinary Sanctions Guidelines.

RESOLUTION
COMMITTEE
REPORT

A motion was made by Rose Kearney-Nunnery to approve the Resolutions Committee Report and their recommendations as presented for 66 consent

MOTION

agreements, 21 dismissals, 7 letters of concern and 5 formal complaints. Sylvia Whiting seconded the motion. The motion carried unanimously.

HEARINGS - PANEL
REPORTS/
MEMORANDA OF
AGREEMENT

To determine appropriate sanctions, the Board reviewed Hearing Panel Reports along with their corresponding transcripts 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.

A continuance was requested and granted in Case # 2007-337.

CONTINUANCE

In Case # 2007-357, 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 can provide evidence that her license is in good standing in all states in which is she licensed to practice nursing.

A motion was made by Trey Pennington to accept the Hearing Panel's Findings of Facts, Conclusions of Law and Recommendation of an indefinite suspension of Respondent's license until such time as Respondent can provide evidence that her license is in good standing in all states in which is she licensed to practice nursing. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-382, 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 #2008-382 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 based on testimony in Case #2008-382 to indefinitely suspend Respondent's license, that Respondent undergo an independent comprehensive physical and behavioral evaluation, complete a Board-approved refresher course and that Respondent may petition to appear before the Board when these requirements are met. Sylvia Whiting seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-409, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent did not appear before the Board and was not represented by legal counsel.

A motion was made by Rose Kearney-Nunnery to go into executive session in Case #2008-409 for the purposes of receiving legal counsel. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting 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 #2008-409 to immediately and indefinitely suspend Respondent's license, upon reinstatement Respondent's license will be placed on probation for three years, practice shall be in a Board approved work setting under the 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 documentation and medicine administration and pay a civil penalty of \$1,000. Carrie Houser James seconded the motion. The motion carried unanimously.

MOTION

In Case #2008-371, Respondent signed a Memorandum of Agreement and waived right to a panel hearing. Respondent appeared before the Board and was represented by Charles Grant Varner, Esquire.

Based on testimony in Case #2008-371, the Board did not accept the memorandum of agreement presented. Respondent will be informed of options available.

In Case #2009-32, 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.

MOTION

A motion was made by Rose Kearney-Nunnery in Case #2009-32 to issue a public reprimand, require Respondent to complete a Board-approved courses in medication administration, documentation and legal aspects and to pay a civil penalty of \$150. Sylvia Whiting seconded the motion. The motion carried unanimously.

In Case #2009-293, Respondent requested license reinstatement. Respondent appeared before the Board but was not represented by legal counsel.

A motion was made by Rose Kearney-Nunnery in Case #2009-293 to indefinitely suspend the Respondent's license. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

Public and private consent agreements including those for unlicensed practice 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 a Board amended consent agreement 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 # 2009-179, 2008-68, 2009-131, 2008-500, 2009-86, 2008-262, 2006-242, 2009-36, 2008-10, 2008-456, 2008-347, 2008-206, 2008-557, 2009-168, 2008-272, 2008-147, 2009-85, 2009-44, 2008-266, 2009-132, 2008-351, 2006-107, 2009-123, 2008-97, 2008-422, 2008-71/2009-170, 2009-104, 2008-563, 2009-47, 2009-145, 2008-448, 2009-136, 2008-373, 2008-289,

MOTION

2009-14, 2009-71, 2009-89, 2008-199, and voluntary surrenders in Cases # 2008-570, 2009-50, and 2008-263 as presented. Trey Pennington seconded the motion. The motion carried unanimously.

A motion was made by Rose Kearney-Nunnery to reject with suggested changes the public consent agreements in Cases # 2008-63, 2008-17, 2008-571, 2008-38, 2009-178, 2009-123, and to carry forward the agreement in Case #2009-178. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to accept the private consent agreements for Cases #2009-130, 2008-507, 2007-414, 2009-52, 2008-95, 2009-142, 2008-389, 2008-450, 2008-294, 2008-115, 2007-445, and 2008-390. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Sylvia Whiting to reject with suggested changes the private consent agreements in Cases # 2008-66 and 2007-213. Carrie James seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Rose Kearney-Nunnery to reject with suggested changes the private consent agreements in Cases # 2008-67 and 2007-288. Trey Pennington seconded the motion. The motion carried unanimously.

MOTION

Rose Kearney-Nunnery recused herself in Case # 2008-355. Because there was not a quorum, this consent agreement will be considered at the November Board Meeting.

A motion was made by Sylvia Whiting to adjourn the board meeting at 5:30 p.m. on September 24, 2009. Trey Pennington seconded the motion. The motion carried unanimously.

ADJOURNMENT

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