

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

BOARD OF NURSING MEETING MINUTES – NOVEMBER 20, 2008

CALL TO ORDER
PLACE OF MEETING
& FOIA COMPLIANCE

Vice President Lewis called the November 20, 2008 meeting to order at 8:30 a.m. In accordance with the Freedom of Information Act, meeting notice was posted at the Board offices and provided to requesting persons, organizations and news media. The Board's mission was read: *The mission of the State Board of Nursing for South Carolina is the protection of public health, safety, and welfare by assuring safe and competent practice of nursing.* A quorum was present at all times.

Brenda Y. Martin, RNC, MN, CNAA, President
Congressional District 5 Absent

BOARD MEMBERS
PRESENT & VOTING

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

Trey Pennington, MBA, MS, Secretary
Public Member Present

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

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

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

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

Joan K. Bainer, RN, MN, NE BC, Board Administrator
Nancy G. Murphy, RN, MS, BC, CPM, Program Nurse Consultant-Education
Sheridon Spoon, Associate General Counsel
David Christian, Office of Licensure & Compliance
Theresa Richardson, Office of Licensure & Compliance
Jocelyn Andino, Asst. General Counsel
Marvin Frierson, Asst. General Counsel
Dwight Hayes, Office of Licensure and Compliance
Kathy Meadows, Office of Investigations and Enforcement
Shirley Robinson, Hearing Counsel
Gwendolyn Green, Hearing Counsel

BOARD AND LLR
STAFF MEMBERS
PRESENT FOR
CERTAIN AGENDA
ITEMS

The November 20, 2008 Board of Nursing meeting agenda was presented to the Board for review and approval.

APPROVAL OF
AGENDA

A motion was made by Dr. Kearney-Nunnery to approve the November 20, 2008 Board of Nursing meeting agenda as presented Mr. Pennington seconded the motion. The motion carried unanimously.

MOTION

The November 20, 2008 Consent Agenda was presented to the Board. The following items were approved, accepted or adopted on the consent agenda:

APPROVAL OF
CONSENT AGENDA

For Information: NCSBN Delegate Assembly Minutes
For Information: Fraud Alert
For Information: Minute Clinic – Board of Medical Examiners Response
For Information: NCSBN – White Paper on Scope of Practice for LVN/LPN
For Information: Herald-Journal Article about Recovering Professional Program
For Information: The American Nurse – Verbal Abuse / Sentinel Event Alert
For Information: Pandemic Flu
For Information: American Medical Association House of Delegates
For Information: NCLEX RN/PN Summary Statistics for 07/01-09/30/08
For Information: USC Beaufort Program Update
For Approval: New Hearing Panel Members–C. O'Hara & P. Scaglione

A motion was made by Dr. Kearney-Nunnery to approve, accept or adopt the items the Consent Agenda as presented. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

The September 2008 Board of Nursing Meeting Minutes were presented for Board review and approval.

APPROVAL OF
MINUTES

A motion was made by Dr. Kearney-Nunnery to approve the September 2008 Meeting Minutes with corrections. Mr. Pennington seconded the motion. The motion carried unanimously.

MOTION

Board Members Drs. Whiting and Lewis as well as Theresa Richardson, Office of Licensure and Compliance attended the National Council of State Boards of Nursing (NCSBN) Uniform Core Licensure Requirements Conference.

UNIFORM CORE
LICENSURE
REQUIREMENTS
(UCLR) CONFERENCE

Ms. Richardson reported that NCSBN would like for all boards of nursing to have the same licensure requirements which they believe will speed up the endorsement process for nurses. They would like to see a national centralized verifications and credentialing organization similar to the Federation Credentials Verification Services (FCVS) utilized in physician licensure.

Dr. Whiting reported that the National Governor's Association has discussed making use of the FCVS. NCSBN would also like for continued competency and discipline to also be uniform. Further discussion included required timing for taking the National Council Licensure Examination (NCLEX) after graduation. Dr. Whiting reported that not all states have limits for taking the NCLEX. In South Carolina, if an applicant does not pass the NCLEX within one year they must provide evidence of Board-approved remediation before reexamination. If they do not pass within three years they must re-qualify.

Dr. Lewis added that the Compact was not really discussed and added that not all law enforcement agencies in our country on computerized which may hinder criminal background checks. Licensure portability was also discussed.

LICENSURE COMPACT ADMINISTRATORS (NLCA)

ADMINISTRATOR'S
REPORT

Ms. Bainer reported that changes to the Compact law were discussed during a Nurse Licensure Compact Administrators (NLCA) meeting. Criminal background checks (CBC) will now be required by Compact law. She stated that Ms.

Richardson of the Office of Licensure and Compliance had reported to her that CBCs would begin in January 2009. A plan will be developed to obtain CBCs on current licensees.

ADVISORY COMMITTEE ON NURSING (ACON)

The Board reviewed the August 26, 2008 Advisory Committee on Nursing (ACON) meeting minutes.

A motion was made by Dr. Whiting to approve the August 26, 2008 Advisory Committee on Nursing meeting minutes as presented. Dr. Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

NURSING PRACTICE AND STANDARDS COMMITTEE (NPSC)

The Board reviewed the August 21, 2008 Nursing Practice and Standards Committee meeting minutes.

A motion was made by Dr. Kearney-Nunnery to approve the August 21, 2008 Nursing Practice and Standards Committee meeting minutes as presented. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

The Nominating Committee will contact nominees to assure willingness to serve and present a slate of 2009 officers for Board consideration and vote at the January 29, 2009 Board Meeting.

NOMINATING
COMMITTEE
OFFICERS

A motion was made by Dr. Kearney-Nunnery for Brenda Martin to serve as chair of the Nominating Committee for 2009 Officers and that Ms. Martin may choose other Board members to serve on the committee. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

The curriculum vitae for Stephanie James, RN, BSN, Certified Legal Nurse Consultant was provided to the Board for information and review per their request at a previous meeting. Ms. James has reviewed cases for the Office of Investigations and Enforcement. No action was necessary in this matter.

CURRICULUM VITAE
STEPHANIE JAMES

Dr. Lewis recused herself due to her employment with Tri-County Technical College. A quorum not present no official action was necessary. Board Secretary Trey Pennington presided.

TRI-COUNTY
TECHNICAL
COLLEGE-PN
SATELLITE PROGRAM
LOCATION UPDATE

The practical nursing program at the Fred Hamilton Career Center in Oconee closed in 2007. Tri-County Technical College (College) is now operating a satellite practical nursing at that site. Janet Fuller, Department Head for Nursing appeared to notify the Board that they have the satellite program operating at that location. The College provided information regarding the program. They started the program in January 2008. Discussion included but was not limited to full time faculty at the satellite location, sharing of faculty between locations, students who are not successful not having to wait a full year, lower attrition, support of nursing partners, and students moving into the transition program.

The Board was provided with the Resolutions Committee Report and recommendations for cases reviewed since the September 2008 Board of Nursing meeting for review and approval. Cases were reviewed by the Committee utilizing the Disciplinary Sanctions Guidelines approved by the Board.

RESOLUTION
COMMITTEE REPORT

A motion was made by Dr. Whiting to approve the Resolutions Committee Report and Recommendations for Consent Agreements, Dismissals, Letters of Concern, Flagged Pending Unresolved Disciplinary Action and Formal Complaints as presented. Dr. Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

Dr. Kearney-Nunnery recused herself due to prior information on the topic. It was noted that there was not a quorum however no official action was necessary.

SOUTH UNIVERSITY
PROGRAM UPDATE

Laurie Harden, Nursing Program Director and Dan Coble, President of the Tampa Campus and Acting Dean for the College of Nursing for South University appeared before the Board to provide an update on their program. South University received initial Board approval for their baccalaureate program in July 2008. Since that time there have been changes that require Board notification for change in program director and structure. The Board reviewed the materials presented. South University will go before the Advisory Committee on Nursing in December for review and recommendation of curriculum changes. Discussion included but was not limited to the role of the program director and the plan for the number of hours the director would teach.

Ms. James joined the meeting.

Christi Cimineri, Nursing Department Chair, Horry Georgetown Technical College appeared by video teleconference call to notify the Board of the Nursing Program moving from the Conway Campus to the Grand Strand Campus on August 25, 2008. Both associate degree and practical nursing programs were moved to the new location. Discussion included but was not limited to allocation of the 55,000 square feet in the former Air Force hospital, room for expansion, and no changes to the nursing programs.

HORRY-
GEORGETOWN
TECHNICAL
COLLEGE-PROGRAM
LOCATION CHANGE/
UPDATE

Joel Orr, Christian Science Committee on Publication in South Carolina appeared before the Board at the encouragement of legislators to request that the Board not object to the inclusion of the following language in the Nurse Practice Act:

PROPOSED
CHRISTIAN SCIENCE
LEGISLATION

§40-33-30(F) The provisions of this chapter shall not apply to the consensual care of the sick in accordance with the tenets or practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing.

The Board reviewed information from Mr. Orr as well as information previously provided. Discussion included but was not limited to patient choice, Christian Science caregiver functions which are not prohibited by the Nurse Practice Act, definition of and title protection for "nurse," objection to those not licensed as a nurse using the title "nurse," Christian Science Practitioners as a separate type caregivers, possible public confusion in the use of the title "nurse" by people who are not licensed, and the value and necessity of different faith options for patients.

A motion was made by Dr. Kearney-Nunnery to retain the definition of "nurse." Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Mr. Pennington that the State Board of Nursing objects to the addition of the proposed language to the Nurse Practice Act. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

PANEL REPORTS/
MEMORANDA OF
AGREEMENT

The Board reviewed cases and Hearing Panel's findings of fact, conclusions of law and recommendations. Memoranda of Agreement (MOA) regarding violation of the Nurse Practice Act, previous Board orders or unlicensed practice were presented to the Board for review and determination of appropriate sanctions. Respondents appeared before the Board to respond to questions regarding their Panel Report or MOA. Recovering Professionals Program (RPP) representatives from were present to respond to questions in cases regarding their clients.

PANEL REPORT

A motion was made by Mr. Pennington to accept the Hearing Panel's Findings of Facts and Conclusions of Law and the recommendation to indefinitely suspend Respondent's license, that the suspension be stayed if the Respondent re-enrolls with the Recovering Professional Program (RPP), complies with any program recommendation and receives clearance from RPP to return to work. Dr. Kearney-Nunnery made a friendly amendment to include a Board appearance prior to that stay if Respondent re-enrolls in RPP. Mr. Pennington accepted the amendment. Dr. Kearney-Nunnery seconded the motion. The motion carried unanimously.

MOTION

MEMORANDA OF AGREEMENT (MOA)

An advanced practice registered nurse (APRN) admitted through a MOA that she practiced nursing until August 4, 2008 after her APRN license expired on April 30, 2008.

A motion was made by Dr. Whiting to issue a \$2,000 fine for an APRN for four-month lapse. Dr. Kearney-Nunnery made a friendly amendment that the fine be \$1,000 with a private reprimand per policy guidelines. The amendment was accepted by Dr. Whiting. Ms. James seconded the motion. The motion carried unanimously.

MOTION

An advanced practice registered nurse (APRN) admitted through a MOA that she practiced nursing until August 5, 2008 after her APRN license expired on April 30, 2008.

A motion was made by Ms. James to go into executive session for the purpose of receiving legal counsel. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

A motion was made by Dr. Kearney-Nunnery to leave executive session. Dr. Whiting seconded the motion. The motion carried unanimously. No official actions were taken during executive session.

MOTION

A motion was made by Ms. James that a fine of \$1,000 be imposed to be paid within a six-month period of time in addition to a private reprimand. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

A licensed practical nurse (LPN) admitted through a MOA that she practiced nursing until July 11, 2008 after her LPN license expired on April 30, 2008.

A motion was made by Dr. Kearney-Nunnery to issue a private reprimand and a civil penalty of \$750 payable within six months. Dr. Whiting seconded the motion.

MOTION

The motion carried unanimously.

An advanced practice registered nurse (APRN) admitted through a MOA that she practiced nursing until July 30, 2008 after her APRN license expired on April 30, 2008.

Dr. Kearney-Nunnery made a motion to issue a private reprimand and a civil penalty of \$750 to be payable within six months. Dr. Whiting seconded the motion. The motion carried unanimously.

MOTION

An advanced practice registered nurse (APRN) admitted through a MOA that she practiced nursing until August 20, 2008 after her APRN license expired on April 30, 2008.

A motion was made by Dr. Whiting to follow the guidelines for unauthorized nursing practice with a private reprimand and \$750 civil penalty to be paid within six months fine. Ms. James seconded the motion. The motion carried unanimously.

MOTION

REINSTATEMENT REQUEST

A motion was made by Dr. Kearney-Nunnery to reinstate Respondent's license based upon recommendations and her improved status. Dr. Whiting seconded the motion. Legal counsel asked about restrictions on the license. The motion was amended to include Board approved work setting under on-site /on-shift registered nurse supervision, no home based care, agency or telenursing or telehealth, and quarterly employer reports. The amended motion carried unanimously.

MOTION

The Offices of General Counsel and Licensure and Compliance provided the Board with public and private consent agreements 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 have the right to request a panel hearing in lieu of signing the amended agreement.

CONSENT
AGREEMENTS

A motion was made by Dr. Kearney-Nunnery to accept the Public Consent Agreements for Case #2008-44, Case #2008-94, Case #2008-37, Case #2008-24, Case #2008-357, Case #2008-198, Case #2008-270, Case #2008-17, Case #2007-120/2008-449, Case #2006-228, Case #2008-176, Case #2008-365, Case #2008-200, Case #2007-84, Case #2006-408, Case #2007-501, 2008-103, to accept the Private Consent Agreements for Case #2008-344, Case #2008-178, Case #2008-291, Case #2008-79, Case #2008-341, Case #2008-306 and to accept 22 private consent agreements for unlicensed practice. Mr. Pennington seconded the motion. The motion carried unanimously.

MOTION

The Board asked staff to review the civil penalties policies including unlicensed practice by advanced practice registered nurses.

A motion was made to adjourn the meeting at 6:45 p.m. on September 26, 2008. The motion received a second. The motion carried unanimously.

ADJOURNMENT

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