

## South Carolina Department of Labor, Licensing and Regulation

## Board of Nursing

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Nikki R. Haley Governor

Catherine B. Templeton Director

## JANUARY 26-27, 2012 BOARD OF NURSING MEETING MINUTES

Board President Samuel McNutt called the Board of Nursing meeting to order at 9:10 a.m. on January 26, 2012 and at 8:31 a.m. on January 27, 2012. Public notice was properly posted at the board offices as well as on its website and provided to all requesting persons, organizations and news media in compliance with the S.C. Freedom of Information Act. A quorum was present at all times.	CALL TO ORDER PLACE OF MEETING & FOIA COMPLIANCE
quorum was present at all times.	
Samuel H. McNutt, RN, CRNA, MHSA, PresidentPresent Congressional District 5	BOARD MEMBERS PRESENT & VOTING
Amanda Baker, RN, MSN, CRNA, MNAPresent Congressional District 2	<u> </u>
Carol A. Moody, RN, MAS, NEA-BCPresent Congressional District 4	
Lisa C. Irvin, RN, MSN, NEA-BCPresent Congressional District 6	
Sylvia A. Whiting, PhD, APRN-BC,Present Congressional District 1	
Anne Crook, PhDPresent Public Member	
James E. Mallory, EdDPresent Public Member	
Vacancies: Registered Nurse – Congressional District 3 Two Licensed Practical Nurse Vacancies- Regions I & II	
Nancy Murphy, MS, RN, BC, CPM, Board Administrator Sheridon Spoon, Advice Counsel Lynne Rogers, Office of General Counsel	LLR STAFF PRESENT FOR CERTAIN ITEMS
The January 26-27, 2012 Board of Nursing Meeting Agenda was presented for the Board's review and approval.	APPROVAL OF AGENDA
A motion was made by James Mallory to approve the agenda. Carol Moody seconded the motion. The motion carried unanimously. The agenda was adopted.	MOTION

The following items were presented to the Board on the January 26-27, 2012 Consent Agenda for review, approval or acceptance as information.	APPROVAL OF CONSENT AGENDA
<ul> <li>a. For Information: NCSBN Brief CEO Communiqué</li> <li>b. For Information: American Association of Colleges of Nursing Health Affairs Article on Registered Nurse Supply</li> <li>c. For Acceptance: August 2011 Advanced Practice Committee Meeting Minutes</li> </ul>	
A motion was made by Sylvia Whiting to approve the Consent Agenda. Anne Crook seconded the motion. The motion carried unanimously.	MOTION
The November 11, 2011 meeting minutes were presented for the Board's review and approval.	APPROVAL OF MINUTES
A motion was made by James Mallory to approve the November 11, 2011 meeting minutes (as presented.) Carol Moody seconded the motion. The motion carried unanimously.	MOTION
Mark Sanders, Chief Investigator, OIE presented the Board with the Investigative Review Committee Report with the recommendations from its meetings held since the last Board meeting for its review and action. The Disciplinary Sanctions Guidelines is used in making these recommendations.	OFFICE OF INVESTIGATION AND ENFORCEMENT (OIE)
A motion was made by Sylvia Whiting to approve the dismissals (as recommended by the Investigative Review Committee). Amanda Baker seconded the motion. The motion carried unanimously.	MOTION
A motion was made by Sylvia Whiting to approve the formal complaints (as recommended by the Investigative Review Committee). Amanda Baker seconded the motion. The motion carried unanimously.	<u>MOTION</u>
The year-end statistical report will be available at the March meeting.	
Sharon McManus RN, MSN, RCIS, Associate Dean of Nursing, Florence Darlington Technical College (FDTC) appeared before the Board regarding continuing approval of their practical nursing (PN) program.	FLORENCE-DARLINGTON TECHNICAL COLLEGE
At its March 29, 2007 meeting, the Board of Nursing voted to continue full approval for the FDTC PN program for 5 years (based on the 02/27/07 survey report). The FDTC practical nursing program site survey report conducted November 9, 2011 regarding continuing full approval status is attached along with the program's response materials.	
A motion was made by Sylvia Whiting to continue approval for the Florence Darlington Technical College practical nursing program for five years. Anne Crook seconded the motion. The motion carried unanimously.	<u>MOTION</u>

Ron Bartley, President and Nancy White, Interim Nursing Program Director from Northeastern Technical College appeared before the Board to provide an update regarding their faculty status as requested by the Board.	NORTHEASTERN TECHNICAL COLLEGE
Discussion included but was not limited to the resignation of the program director, student enrollment and faculty recruiting and hiring plans. Northeastern stated they have one full-time faculty in place at this time and one full-time adjunct interim faculty member.	
A motion was made by Carol Moody to accept ( <i>Northeastern Technical College Faculty Update</i> ) as information. Amanda Baker seconded the motion. The motion carried unanimously	MOTION
Caroline McGay, Vice President, Academic Affairs, Denmark Technical College appeared before the Board to provide a report regarding their faculty/ enrollment increase status.	DENMARK TECHNICAL COLLEGE
Discussion included but was not limited to faculty resigning, faculty replacements/ new hires, 40 students currently enrolled in the program, future plans to increase enrollment, faculty/ student clinical ratios, faculty recruitment/ hiring plans, employment of students and future employment opportunities for increased enrollment.	
A motion was made by Sylvia Whiting that Denmark Technical College return in May and submit a report with information concerning the employment of present graduates. Lisa Irvin seconded the motion. The motion carried unanimously.	MOTION
Dr. Whiting and Dr. Mallory rescued themselves as having previously worked with South Carolina State University (SCSU). A quorum was still present.	SOUTH CAROLINA STATE UNIVERSITY
Dr. George Cooper, President and Dr. Bobbie Perdue, RN, Nursing Program Director, SCSU appeared before the Board to provide a program report as requested by the Board at its July 2011 meeting.	
Mr. Cooper and Dr. Perdue discussed improvement plans/ actions in response to the Board's recommendations. Discussion included though was not limited to admission criteria, new course plans and standardized testing.	
A motion was made by Lisa Irving to go into executive session for the purpose of receiving legal counsel. Carol Moody seconded the motion. The motion carried unanimously.	MOTION
The Board returned from executive session. No official actions were taken during executive session.	
A motion was made by Carol Moody to continue conditional approval (South Carolina State University) through July of 2012 with the following requirements	MOTION

<ol> <li>Return to board in May 2012 with the following report documentation:         <ol> <li>Report on May 2011 graduating class of 29 students</li> <li>Passing % of NCLEX scores</li> <li>Passing % of the cohort facilitated by SCSU through ATI Tracker Employment data of graduates of May 2011 RNs</li> </ol> </li> <li>Update on faculty roster, FT, PT, visiting status with credentials</li> <li>Report on all new courses of the curriculum</li> <li>Report on all levels of students enrolled in all nursing courses, grades, ATI scores and % of student progressed for all nursing courses</li> </ol>	
Lisa Irvin seconded the motion; the motion passed with recusals by Drs. White and Mallory.	
A motion was made by Lisa Irvin to approve curriculum changes as presented. Amanda Baker seconded the motion. The motion passed with recusals by Drs. White and Mallory.	<u>MOTION</u>
Garrett Gillespie, Esq., Senior Legal Counsel, CVS Caremark and Brandy Dickson, ND, APRN, GSA District Manager of Operations appeared to request a waiver pursuant to SC code section 40-33-34 to extend the number of Advanced Practice Registered Nurses (APRN's) who work with our collaborating physicians, such that each physician may work with up to three full-time equivalent (FTE) APRN's. Not asking for legal interpretation; asking for the waiver under the statute.	MINUTE CLINIC
Discussion included though was not limited to supervision, utilizing part- time (PT) positions, coverage for open and proposed clinic openings, nurse scheduling, physician supervision and clinic sites.	
A motion was made by Carol Moody to go into executive session for the purpose of receiving legal counsel. Lisa Irving seconded the motion. The motion carried unanimously.	<u>MOTION</u>
The Board returned from executive session. No official actions were taken during the executive session.	
A motion was made by Amanda Baker that the Board does not have the authority to interpret the definition of full-time equivalents secondary to anguage in our practice act. The Board does have the ability to waive the number of advanced practice registered nurses supervised by a physician. Therefore, we are willing to consider a waiver based on individual application as defined by the practice act Section 40-33-34. C.2. Carol Moody seconded the motion. The motion carried unanimously.	<u>MOTION</u>
Samuel McNutt recused himself from the proceedings as he works for Palmetto Health. Carol Moody presided for the agenda item. A quorum was still present.	PALMETTO HEALTH
Sandy Jones, APRN appeared before the Board to request approval for Dr. Rodney Fitzgibbon to supervise more than three nurse practitioners.	

Supervising four NP (Nurse Practitioners). Anné Crook seconded. The motion carried with the recusal of Samuel McNutt.  Stephanie Burgess, APRN, DNP, Chair, Advanced Practice Committee (APC) appeared before the Board to request approval for proposed Advisory Opinion #58 ls it within the scope and practice of a CRNA to advance a TEE probe (transesophageal probe) and render an interpretation to a cardiac surgeon during surgery?  At its November 4, 2011 meeting, the APC recommended the Board approve the proposed opinion as presented.  Carol Moody made the motion to accept the proposed advisory opinion as outlined regarding a CRNA to advance a TEE probe (transesophageal probe) and render an interpretation to a cardiac surgeon during surgery. Sylvia Whiting seconded and the motion passed unanimously.  Stephanie Burgess, APRN, DNP, Chair, Advanced Practice Committee (APC) appeared before the Board to request approval for the proposed Advisory Opinion #54 ls it within the role and scope of practice for APRNs to conduct assessments without physician collaboration or preceptors?  At its November 4, 2011 meeting, the APC recommended the Board approve the proposed opinion as presented. Changes were made pased on Board feedback from the September 2011 meeting.  A motion was made by Sylvia Whiting that they approve the final adjustments as presented for the role and scope of practice for the APRNs to conduct assessments without physician collaboration or preceptors. Carol Moody seconded and the motion passed unanimously.  Stephanie Burgess, APRN, DNP, Chair, Advanced Practice Committee (APC) appeared before the Board regarding CRNA Role/ Scope –		
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		MOTION

Richard P. Wilson, JD, Special Counsel/Administrative Coordinator, S.C. Recovering Professional Program appeared before the Board to discuss the RPP Abstinence from Mood-altering Substances – Request for Permission to Practice While Using Policy/ Procedure.	ABSTINENCE FROM MOOD- ALTERING SUBSTANCES – REQUEST FOR PERMISSION TO PRACTICE WHILE USING
Mr. Wilson discussed the Abstinence Policy revisions that went into effect last fall for new people. Established clients, who have been given permission over the years to use drugs that could cause impairment under a doctor's prescription, are now having to move away from these drugs. Policy has moved in the direction that no one should be practicing while using a drug that can cause impairment. February 1 <sup>st</sup> is the date for the established people to move off. They have known about this since October when case managers began alerting them. As of last Tuesday, almost all have moved away from these drugs.	
A process has been set up with the guidance of the medical board for individuals who's attending physician feel have no alternative and may be functioning safely while using these drugs. Mr. Wilson discussed the presented SCRPP Abstinence from Mood-altering Substances – Request for Permission to Practice While Using Policy/ Procedure and the process for the participant request. The policy is to take effect February 1, 2012 and they will not be able to practice after February 1 if they do not furnish a clean drug test.	
Respondents appeared before the Board to request modifications to their consent agreements or Board orders. The Board reviewed consent and memoranda of agreement stipulating to violations of the Nurse Practice Act to determine disciplinary actions. Recovering Professional Program representatives were also present to respond to questions.	OGC Hearings
In Case #2009-518, Respondent signed a Memorandum of Agreement in lieu of a hearing and admitting to violation of Section 40-33-110(A)(1), (3),, (10), (14), and (18) as well as 40-1-110(f), (h), and (i), South Carolina Codes of Laws, as amended. Respondent appeared without legal counsel before the Board. Respondent was aware of his/her right to legal counsel and waived that right.	
A motion was made by Carol Moody to enter executive session for legal advice in case 2009-518. Ann Crook seconded the motion. The motion carried unanimously.	MOTION
A motion was made by Lisa Irvin to leave executive session. Carol Moody seconded the motion. The motion carried unanimously. No official actions were taken during executive session.	MOTION
A motion was made in Case 2009-518 by Lisa Irvin to reinstate license with one year probation contingent on the following: demonstrate the required number of accrued contact hours by the state board for license renewal; demonstrate continuing education for competency, no home based care, staffing agencies, traveling agencies, quarterly reports from employer, access to narcotics will be left to the director of nursing at facility where seek employment, continued RPP participation, legal aspects workshop and ethics course. Sylvia Whiting seconded the	MOTION

motion. The motion carried unanimously. In Case #2011-454, Respondent requested to modify the requirements for quarterly employer reports in the consent order. Respondent appeared before the Board and waived the right for legal representation. Respondent requested release from probation explaining the need for an unrestricted license to finish school and to find employment. A motion was made in Case 2011-454 by Anne Crook to lift the MOTION requirements of probation. Lisa Irvin seconded the motion. The motion carried unanimously. In Case #2010-486, Respondent signed a Memorandum of Agreement In lieu of a hearing and admitting to violation of Section 40-33-110(A)(3) and (25) as well as 40-1-110(f), South Carolina Codes of Laws, as amended. Respondent appeared without legal counsel before the Board. Respondent was aware of his/her right to legal counsel and waived that right. A motion was made by Sylvia Whiting to enter executive session for **MOTION** legal advice in case 2010-486. Amanda Baker seconded the motion. The motion carried unanimously. A motion was made by Anne Crook to leave executive session. Amanda **MOTION** Baker seconded the motion. The motion carried unanimously. No official actions were taken during executive session. A motion was made in Case 2011-486 by Lisa Irvin to suspend the MOTION respondent's license until the completion of the following courses, legal aspects workshop, medication errors course, medication administration course. Also, a public reprimand with a fine of \$1,000 dollars for the seriousness of the infraction and to return to the board requirements met. Amanda Baker seconded the motion. The motion carried unanimously. In Case #2009-283, Respondent requested a modification to the narcotics restrictions in September 2011 of the consent agreement. Respondent appeared without legal counsel before the Board. Respondent was aware of his/her right to legal counsel and waived that right A motion was made by Carol Moody to enter executive session for legal MOTION advice in case 2009-283. Anne Crook seconded the motion. The motion carried unanimously. A motion was made by Carol Moody to leave executive session. James **MOTION** Mallory seconded the motion. The motion carried unanimously. No official actions were taken during executive session. A motion was made in Case 2009-283 by James Mallory to uphold the **MOTION** original order as is. Lisa Irvin seconded the motion. The motion carried unanimously.

In Case #2010-348, Respondent requested to modify the Memorandum of Agreement. Respondent requested to have the charge of misconduct removed from the licensure record. Respondent appeared without legal counsel before the Board. Respondent was aware of his/ her right to legal counsel and waived that right.

A motion was made by Carol Moody to enter executive session for legal advice in case 2010-348. Amanda Baker seconded the motion. The motion carried unanimously.

<u>MOTION</u>

A motion was made by Anne Crook to leave executive session. Carol Moody seconded the motion. The motion carried unanimously. No official actions were taken during executive session.

**MOTION** 

A motion was made by Amanda Baker to dismiss the case with a letter of caution. Anne Crook seconded the motion. The motion carried unanimously.

**MOTION** 

In Case 2010-361, Respondent withdrew request.

In Case 2010-497, Respondent requested case be continued.

In Case #2003-473, Respondent requested to modify the requirement for quarterly employer reports in the consent order. Respondent appeared without legal counsel before the Board. Respondent was aware of his/ her right to legal counsel and waived that right.

**MOTION** 

A motion was made in case # 2003-473 by Lisa Irving moved to forgive the last quarterly report, for a minimum of three months of RPP testing and that RPP submit a report when recommend ready to return to practice. Carol Moody seconded the motion. The motion carried unanimously.

In Case #2010-217-118, Respondent signed a Memorandum of Agreement in lieu of a hearing and admitting to violation of Section 40-33-110(A)(1), (3), (10), (13), (14), and (18) as well as 40-1-110(f), (h), and (i), South Carolina Codes of Laws, as amended. Respondent appeared without legal counsel before the Board. Respondent was aware of his/her right to legal counsel and waived that right. Amanda Baker recused herself from the preceding.

**MOTION** 

A motion was made by Lisa Irving in case #2010-217-118 to reinstate license contingent on continued participation in the RPP program, meeting the competency requirements, probation for one year, access to controlled substances at the discretion of the Director of Nursing, quarterly reports, no home-based care, staffing agency or telemedicine and a legal and ethics course. Lisa Moody seconded the motion. The motion carried unanimously.

In Case #2011-380, Respondent signed a Memorandum of Agreement In lieu of a hearing and admitting to violation of Section 40-33-110(A) (5), (7), South Carolina Codes of Laws, as amended. Respondent appeared without legal counsel before the Board. Respondent was aware of his/her right to legal counsel and waived that right.

A motion was made by Carol Moody to enter executive session for legal advice in case #2010-348. Amanda Baker seconded the motion. The motion carried unanimously.	MOTION
A motion was made by Lisa Irvin in case #2011-380 to leave executive session. James Mallory seconded the motion. The motion carried unanimously. No official actions were taken during executive session.	MOTION
A motion was made by Lisa Irvin in case #2011-380 to fully return to the original order issued by the board February 2008 with the following restrictions: reinstate RN (registered nurse) license with single state status, probation for one year, suspension of advanced practice registered license during the probationary period; completion of ethics and legal aspects workshop; completion of required continuing education for licensure; continued RN supervision during the period of probation; no home based, staffing agency, or telenursing during the probationary period; submit quarterly reports to the Nursing Board; access to controlled substances will be at the discretion of the director nursing and continued RPP participation. Carol Moody seconded the motion. The motion carried with the recusal of Amanda Baker.	MOTION
In Case 2008-273 did not appear and was not represented by legal counsel.	
In Case #2010-446, Respondent signed a Memorandum of Agreement in lieu of a hearing and admitting to violation of Section 40-33-110(A)(3) and (18) as well as 40-1-110(a) and (f) (1976, as amended), South Carolina Codes of Laws, as amended. Respondent appeared without legal counsel before the Board. Respondent was aware of his/her right to legal counsel and waived that right.	
A motion was made by Amanda Baker to enter executive session for legal advice in case #2010-446. Lisa Irvin seconded the motion. The motion carried unanimously.	MOTION
A motion was made by Lisa Irvin in case #2010-446 to leave executive session. James Mallory seconded the motion. The motion carried unanimously. No official actions were taken during executive session.	MOTION
A motion was made by Lisa Irvin in case #2010-446 to continue suspension and to order a psychological evaluation be done. Respondent is to return to the Board upon completion of the evaluation and provide the results. Amanda Baker seconded the motion. The motion carried unanimously.	MOTION
In Case #2011-463, Respondent requested to modify the civil penalty in the April 2011 order. Respondent appeared before the Board and waived the right for legal representation. Respondent requested reduction in civil penalty.	
A motion was made by Anne Crook to enter executive session for legal advice in case #2011-463. Amanda Baker seconded the motion. The motion carried unanimously.	MOTION

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A motion to approve the new Investigative Review Committee (IRC) member (Cindy Rohman) was made by Carol Moody. Sylvia Whiting seconded the motion. The motion carried unanimously.  The Board went into executive session for the confidential review and evaluation of Proposed 2012 RN Test Plan® per contract with National Council of State Boards of Nursing (NCSBN).  A motion was made by Anne Crook to leave executive session. Carol Moody seconded the motion. The motion carried unanimously.  Upon review, the Board accepted the Proposed 2013 RN Test Plan® as presented.  Discussion was held regarding the Board President and Administrator attending the NCSBN Mid-Year Meeting.  A motion was made by Lisa Irvin to approve attendance (Board President and Administrator attending the NCSBN Mid-Year Meeting).  Ann Crook seconded the motion. The motion carried unanimously.  Information on the 2012 Statement of Economic Interests was provided to the Board.  The Board reviewed materials provided and discussed renewal competency requirements for first time renewal.  A motion was made by Lisa Irving that nurses who are seeking renewal competency requirements for first time renewal.  A motion was made by Lisa Irving that nurses who are seeking renewal competency requirements for first time renewal.  A motion was made by Lisa Irving that nurses who are seeking renewal competency requirements for first time renewal.  A motion was made by Lisa Irving that nurses who are seeking renewal competency requirements for first time renewal.  EXECUTIVE SESSION  EXECUTIVE SESSION  A motion was made by Ann Crook to enter executive session for legal advice on procedures that the Board follows and general issues; specifically how hearings are handled. Carol Moody seconded the motion carried unanimously.		
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