

**SC Department Of Labor, Licensing And Regulation
STATE BOARD OF NURSING
110 Centerview Drive, Room 108
Columbia, South Carolina 29210**

REGULAR BOARD MEETING MINUTES - NOVEMBER 17, 2005

President Sylvia Whiting called the meeting to order at 8:35 a.m. Public meeting notice was properly posted in the Kingstree Building Lobby 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. The Board mission was read as follows: *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.*

CALL TO ORDER
AND FOIA
COMPLIANCE

Sylvia Whiting, PhD, APRN-BC, President Congressional District 1	Present
Suzanne White, RN, MN, FAAN, FCCM, CNAA, Vice-President Congressional District 4	Present
Brenda Martin, RNC, MN, CNAA. Secretary Congressional District 5	Present
Carrie Houser James, RN, MSN Congressional District 6	Present
Mattie Jenkins, LPN Region I, Congressional District 1	Present
Rose Kearney-Nunnery, RN, PhD Congressional District 2	Present
C. Lynn Lewis, RN, EdD, MHS Congressional District 3	Present
Debra Doria, LPN Region II, Congressional District 4	Present
James Rogers, Esquire Public Member	Present
Public Member	Vacancy

BOARD
MEMBERS
PRESENT AND
VOTING

Renatta Loquist, RN, Interim Administrator	<u>STAFF MEMBERS PRESENT FOR CERTAIN AGENDA ITEMS</u>
Ruby McClain, Asst. Dep. Director, Health & Medically Related Professions	
Richard P. Wilson, Deputy General Counsel	
Dwight Hayes, Litigation Counsel	
Maggie Johnson, RN, Program Nurse Consultant-Practice	
David Christian, Program Coordinator – Licensure	
Annette Disher, Program Coordinator – Licensure	
Theresa Richardson, Administrative Assistant – Licensure	
Debra Wade, Data Coordinator – Licensure	
Steve Triplett, III, Data Coordinator – Licensure	
Judy Moore, Administrative Specialist - Education	

Dottie Buchanan, Assistant to the Administrator

The agenda for the November 17, 2005 Board Meeting was presented to the Board for review and approval.

APPROVAL OF
AGENDA

A motion was made to approve the November 2005 Board Meeting agenda as presented. The motion received a second. The motion carried unanimously.

MOTION

The following items were adopted on the consent agenda:

APPROVAL OF
CONSENT
AGENDA

- C1.1 ACON Minutes
- C1.2 Appointment of PN Educator Group Representative to ACON
- C1.3 SC State Register –Supervision Regulation & Compact Regulations
- C4.1. For Information NCLEX Statistics from NCSBN
- C4.2. For Information Lander University - Faculty Information
- C4.3 For Information NLN News Releases
- C4.4 For Information ECPI Proposal for Establishing a PN Program
- C5.1 Advanced Practice Committee Meeting Minutes
- C5.2 Nursing Practice and Standards Committee Minutes
- C6.1 October 13, 2005 Disciplinary Review Committee (DRC) Minutes
- C6.2 Approval of Inv. Review Committee Member – Sheldon & Haviland
- C6.3 Compliance Statistics
- C7.1 Information: Licensure Statistics

MOTION

A motion was made to adopt the Consent Agenda with removal of the Recovering Professionals Program Quarterly Reports. The motion received a second. The motion carried unanimously.

The Board reviewed cases and recommendations from the Hearing Panel. Respondents were notified and appeared before the Board to respond to questions.

FINAL ORDER
HEARINGS

Although properly notified and with service upon the Board President, Respondent did not appear before the Board. Respondent has relocated to Florida. In their Findings of Fact and Conclusions of Law, the Hearing Panel found that the State failed to prove by a preponderance of the evidence that the Respondent violated the provisions of the Nurse Practice Act as set forth in the Formal Complaint. The Hearing Panel recommended that the Complaint be dismissed.

A motion was made to accept Findings of Fact, Conclusions of Law and recommendation to dismiss this complaint. The motion received a second. The motion carried unanimously.

MOTION

Respondent appeared before the Board to request approval of a practice setting, which is not in compliance the Consent Agreement. The order, in part, requires that Respondent's practice be limited to a specific setting and

REQUEST FOR
APPROVAL OF
PRACTICE

location approved in writing by the Board with on-site/on-shift registered nurse supervision at all times with quarterly employer reports. The requested setting does not have a supervisory registered nurse on site at all times however the nurse does not have access to any controlled substances in this position. The request does not cover the monitored period, which would begin in the future when the Respondent can work in a supervised setting with the required reporting. Respondent has worked in a supervised position during this disciplinary period.

SETTING

A motion was made to allow an adjustment of the Consent Agreement for this setting with offsite supervision and the continuation of quarterly reports. The motion received a second. The motion carried unanimously.

MOTION

An applicant for licensure by endorsement as a licensed practical nurse appeared before the Board to respond to questions regarding reported criminal and/or disciplinary records.

LICENSURE
APPEARANCES

A motion was made to allow the applicant to be licensed by endorsement as a licensed practical nurse in South Carolina. The motion received a second. The motion carried with one nay vote.

MOTION

Mr. Wilson presented the Board with a copy of the “Engine” Act re-write. The Nurse Practice Act has been a good model during the revision of the Engine Act. The Engine Act allows other boards in the agency similar authority to the Board of Nursing. Changes have been made for consistency such as using the word “authorization” rather than “license” because some boards issue licenses while other issue permits. As always, if there were any differences between the Engine Act and a practice act, the default would be to the practice act. Due to the recent emergency situations in the gulf states, language has been added to allow emergency licensing, within the discretion of the board, for displaced practitioners working directly with an authorized South Carolina practitioner.

ENGINE ACT
REWRITE

A motion was made to endorse the “Engine” Act re-write as presented. The motion received a second. The motion carried unanimously.

MOTION

Mr. Wilson presented additional changes to the Nurse Practice Act “Housekeeping” Bill. These changes will be submitted to the legislative committee where the bill currently resides. No opposition is anticipated for this or the other “housekeeping” changes. Staff reported that quite often nurses who are eligible for licensure in another state but have an inactive license, wish to endorse into our state. Current law requires that the licensee have an active license. This requires the licensee to reinstate their license in the other state. With the implementation of the Compact, it will not be possible for other Compact states to reinstate the license because South Carolina would be their primary state of resident. Language was presented to change the wording from “active” license to “is eligible for authorization to resume active practice...” for the endorsement section of the Nurse Practice Act. This would allow a nurse who is in good standing and who could reactivate their license to be endorsed into our state.

NPA
HOUSEKEEPING
BILL

A motion was made to approve the change “active” license to “is eligible for authorization to resume active practice...” for licensure by endorsement. The motion received a second. The motion carried unanimously.

MOTION

Ms. Loquist gave an update on the Multi-state Licensure Compact (Compact) implementation in South Carolina. She reported that Board staff is meeting on a weekly basis to review the Compact timeline provided by the National Council of State Boards of Nursing (NCSBN) as well as the internal timeline. Data files are being prepared for NURSYS. Educational materials and presentations for licensees, employers, and Board staff have been developed and information placed on the website. Staff has participated in conference calls with the Nurse Licensure Compact Administrators (NLCA) as well as with the North Carolina Board of Nursing who is our state’s mentor for Compact implementation. More than 9,000 letters and declarations of primary state of residence were mailed to South Carolina licensees with out of state addresses. There are approximately 3,000 nurses living in South Carolina who work in North Carolina and the same approximate number living in North Carolina who work in South Carolina.

COMPACT
UPDATE

Ms. Loquist reported that staff has taken a multitude of calls from licensees regarding the Compact as well as on the continued competency requirements for the upcoming renewal.

Staff has worked with the Office of General Counsel in the drafting of the Compact regulations. The notice of drafting for the Compact regulations has been published in the State Register pursuant to law. The regulations submitted are the NCSBN model Compact regulations, which were approved by the Board at the September 2005 Board Meeting.

Board staff will be working with the Department of Labor, Licensing and Regulation – Offices of General Counsel and Investigation and Enforcement regarding the disciplinary process and requirements under the Compact.

The December 2005 exam graduates will receive a single-state temporary license to practice under until multi-state licenses are issued on February 1, 2006. Endorsement applicants from North Carolina will be encouraged to apply for South Carolina licensure as close to the February 1, 2006 as possible so that they will receive multi-state licenses and will be given priority in licensing. If they apply for licensure between December 19 and January 31, they will be issued a temporary license until multi-state licenses are issued. The North Carolina Board of Nursing will work with our board and licensees to make sure no one is penalized during the Compact transition process. Advanced Practice Registered Nurse (APRN) licenses will be marked “valid in SC only” with a second line stating “RN license, Multi-state license”.

The next Nurse Licensure Compact Administrator’s conference call meeting will be held December 12, 2005.

Ms. McClain asked that the Board revisit the Expungement Policy approved by the Board in March 2002 due to changes in compliance staffing. The current policy requires in part that the Board receive a report of any expungements. These reports have not been provided to the Board.

EXPUNGEMENT
POLICY
(COPY
ATTACHED TO
MINUTES)

Ms. McClain believes that the initial purpose of this policy was to allow expungement of public reprimands for minor infractions. She is concerned about some of the types of offenses, which include practice related violations that have been expunged. Violations such as working a couple of days after the expiration of license seem to be in line with the original intent.

Ms. McClain believes that violations such as a positive drug screen, accepting money from a patient, or reporting to work while intoxicated have a direct relationship to patient care and should not be expunged.

Mr. Rogers and Ms. Martin will work with staff on the revision of the policy to include which violations are not eligible for expungement. Board expressed interest in reviewing the approximately twenty expungements that have been already been granted.

A motion was made to issue a moratorium on expungements while the policy is being reviewed and revised. The motion received a second. The motion carried unanimously.

MOTION

Ms McClain provided an update on the search for a new Board of Nursing administrator. The position will remain posted until filled. They hope to close the posting by the end of November. At this time, 17 applications have been received. Of those 17 applications, four are nurses with various degrees. The remaining applicants have masters and bachelor's degrees in other areas. The posting has been sent to various public associations to promote more responses.

UPDATE ON
ADMINISTRATOR
POSITION

Department of Labor, Licensing and Regulation (LLR) Director Adrienne Riggins Youmans, Ms. McClain and a human resource representative will conduct the interviews along with a two to three board member panel. LLR-Human Resources reviews the applications to ascertain which applicants meet the required qualifications as shown on the posting. Applicants to be interviewed will be chosen from those qualified applicants.

Board members asked if there had been any further discussion regarding changes in the salary and/or classification for this position. Ms. McClain reported that she shared the Board's suggestion with Ms. Youmans.

At the September 29, 2005 Board of Nursing meeting, Board Members, Debra Doria, LPN and James Rogers, Esquire, were appointed to serve on the 2006 Board of Nursing Officer Nominating Committee. Ms. Doria presented the following slate of officers for consideration and vote: Suzanne White as Board President, Brenda Martin as Vice President and Lynn Lewis as Secretary.

ELECTIONS -
REPORT OF
NOMINATING
COMMITTEE

A motion was made to appoint Suzanne White as Board President, Brenda

MOTION

Martin as Vice President and Lynn Lewis as Secretary. The motion received a second. The motion carried unanimously.

Board of Nursing President Sylvia Whiting attended the Board of Medical Examiners meeting on November 8, 2005 as provided for in the Nurse Practice Act. At that meeting, Dr. Whiting expressed the Board of Nursing's concern regarding the utilization of unlicensed assistive personnel such as medication technicians in physician's offices. She explained to the Board of Medical Examiners that education and experience should be taken into consideration when delegating tasks. Discussion with the Board of Medical Examiners included, but was not limited to, utilization and education of unlicensed assistive personnel; surgical technicians, scope of practice for advanced practice registered nurses (APRN), advertisement by APRN, collaboration between the boards on APRN issues, suggestion to have practitioners present at the other practitioners annual meetings, and audits of physician practices utilizing APRNs. The Board of Nursing discussed the possibility of a joint committee between the Boards of Nursing and Medical Examiners to examine issues such as the APRN audit procedure and perhaps determining medical acts supervising physicians can delegate to APRN. The make up and charge for the committee will be discussed at the January 2006 Board meeting.

REPORT BOARD
OF MEDICAL
EXAMINERS
MEETING

The Board asked that the Unlicensed Assistive Personnel Task Force report be provided to members again at their January 26-27, 2006 meeting for review.

The Board of Nursing Bylaws were revised to include appropriate statutory references with the new Nurse Practice Act and presented to the Board for review and approval.

REVISION OF
BOARD BYLAWS

A motion was made to accept the revisions to the Board of Nursing Bylaws with addition of a statement that the chair will be referred to as president and the vice-chair referred to as vice president. The motion received a second. The motion carried unanimously.

MOTION

The Board discussed the 2006 National Council of State Boards of Nursing (NCSBN) meetings. Ms. White, Ms. Martin and Ms. Doria would like to attend the annual meeting in Utah. Ms. White and Ms. James wish to attend the mid-year meeting in Chicago, IL. The Board feels that someone from staff should participate in the NCSBN Institute of Regulatory Excellence. The Board would like to explore the possibility of holding the Board's 2006 annual strategic planning meeting in a month other than May. This will be discussed at the January 2006 meeting.

REVIEW OF 2006
CALENDAR

The Recovering Professionals Program (RPP) Quarterly Report was removed from the Consent Agenda. Ms. Martin asked that financial information be included on the Recovering Professionals Program quarterly reports as it was in the past. Changes in the report may be due to changes in management at the RPP.

RECOVERING
PROFESSIONALS
PROGRAM
REPORT

A motion was made to request that information regarding expenditures and revenue such as budget report be included in the quarterly reports. The motion received a second. The motion carried unanimously.

MOTION

Ms. Bursinger's retirement left a vacancy for the National Council of State Boards of Nursing (NCSBN) Area III Director. NCSBN has asked Dr. Kearney-Nunnery to serve as Area III Director to complete Ms. Bursinger's term. Dr. Kearney-Nunnery will contact other Area III boards of nursing to assure that our concerns are addressed.

NCSBN AREA III
DIRECTOR
UPDATE

Ms. Johnson reported that she and other board staff have received many calls and comments on the employer certification form for continued competency. As staff has spoken with nurses and employers, concern has been focused around the employer certification form. Board staff has found that several institutions, including larger ones, are not willing to use the employer certification form due to advice from their legal counsel. Some employers have elected to not sign the document unless the nurse is audited. There is concern that if the nurse is audited that the employer may then choose not to sign the form after the nurse has renewed their license based on this option, which may result in disciplinary action for the licensee in accordance with Section 40-30-40 of the Nurse Practice Act. The S.C. Organization of Nurse Executives and the S.C. Hospital Association suggested this continued competency option. Some facilities prefer that their nurses obtain continuing education and may require the nurse to complete 30 contact hours of continuing education before they will sign a verification of competency form.

EMPLOYER
CERTIFICATION
FORM

Board members and staff have also heard comments about non-nursing staff signing these forms. Because of non-traditional nursing roles, many nurses do not have a nurse supervisor that can sign the form. The National Council of State Boards of Nursing is looking into this issue.

Section 40-33-40(B)(1)(c) states in part: (B) Demonstration of competency for: (1) renewal of an active license biennially requires documented evidence of at least one of the following requirements during the licensure period: . . . (c) completion of an academic program of study in nursing or a related field recognized by the board; . . .

ACADEMIC
PROGRAM OF
STUDY
COMPETENCY
REQUIREMENT

Board staff has received several requests from licensees asking for consideration of accepting completion of a course(s) toward an academic program of study in nursing or related field recognized by the Board as meeting the competency requirement for renewal of a licensure or for new licensure.

Discussion by the Board included whether courses without the NUR designation, although a requirement of a nursing education program, add to the competency of a nurse as well as how those and other courses may enhance the competency of a nurse.

A motion was made to accept the recommended changes to the Continued

MOTION

Competency Criteria with the change that a minimum grade of C is required for undergrad courses and that a grade B is required for graduate courses to be accepted for competency. The motion received a second. The motion passed

The minutes of the September 29, 2005 Board of Nursing Meeting were presented to the Board for their review and approval.

APPROVAL OF
MINUTES

A motion was made to approve the September 29, 2005 Board Meeting minutes with editorial changes. The motion received a second. The motion carried unanimously.

MOTION

At the March 17, 2005 Board of Nursing meeting, the Aiken Technical College Associate Degree Nursing Program was granted initial approval. There have been changes in the nurse administrator and faculty information since the time of initial approval. At the July 2005 Board meeting, the College provided updated information. At that meeting the Board requested that Aiken Technical College to provide an interim report at their November 17, 2006 meeting.

AIKEN
TECHNICAL
COLLEGE

Documentation provided by the College to the Board reports that Jody Madden, RN, MSN continues to serve as the Interim Chair of the Nursing Department. She will continue in this capacity until a permanent chair is recruited. Donna Goins is the Associate Degree Program Coordinator and is working to phase out their practical nurse program. The College has hired four more faculty members and anticipates soon hiring two more faculty members. One faculty member will be hired in January 2006 and another hired when their master's degree is completed. In spring 2006, Aiken Technical College expects to have only 32 students, which will assist with lighter teaching loads for their faculty.

Dr. Julia Ball continues to consult with Aiken Technical College faculty and the interim department chair. A faculty retreat is being planned for December 9, 2005. Dr. Ball will attend and most likely present at the faculty retreat. Dr. Alice Frye and Robin Vieke will also present information on curriculum and testing at the retreat. Faculty will attend a test construction and evaluation course offered by Upstate Area Health Education Consortium (AHEC) Grace Newsome has agreed to consult with the College for the National League for Nursing Accrediting Commission (NLNAC) accreditation and Janet Ancone has also provided valuable input. Aiken Technical College is looking at possibly using a pre-nursing testing. They had used a test in the past but found that the current testing was a good indicator. Dr. Frye is working on a grant for the College. This had been applied for previously for a licensed practical nurse bridge program; however, the proposal may have been too broad. They are working on this grant for a group of licensed practical nurses.

At its October 18, 2005 meeting, the Advisory Committee on Nursing (ACON) reviewed the draft education regulations and voted to recommend Board approval. Janet Ancone, from the ACON Task Force appeared

DRAFT
EDUCATION
REGULATIONS

before the Board to answer questions and concerns the Board might have on the draft. Dr. Lewis commended the ACON Task Force as well as the Deans and Directors Council for their hard work on this major undertaking.

ACON appointed a task force to review all the education regulations and make recommendations to the committee for updates to the regulations. Ruby Brice McClain, Assistant Deputy Director for the Office of Health and Medically Related Professions and Richard P. Wilson, Deputy General Counsel, have reviewed these regulations.

Changes discussed during the Board meeting included: requiring the feasibility report be submitted earlier in the process, that all programs, whether in state or out of state, meet the same requirements for clinicals in our state. Ms. Ancone suggested the possibility of an informational meeting with employers such as the South Carolina Organization of Nurse Executives (SCONE) and others on what types of questions to ask when nursing education programs request to utilize their facilities for clinicals. Much of the changes in wording comes either from the current law in instances where language was not the same in the registered nurse and practical nurse portions, other language comes from accreditation information, and the word "adequate" was used because needs and requirements may vary from program to program and faculty to faculty. Although she acknowledged that facilities could turn down requests, Ms. White expressed concern about facilities being inundated with preceptor requests from in and out of state nursing education programs.

A motion was made to send the draft back to Advisory Committee on Nursing and recommend changes be considered related to the Compact, accrediting agencies with a follow up report at the January meeting. The motion received a second. The motion carried unanimously.

MOTION

Brenna Dill, RN, CNSN sent in a letter requesting that the Board consider adding Nutrition Support as a recognized nursing specialty. She explained that the National Board of Nutrition Support Certification, Inc. (NBNSC) certifies nutrition support specialists. The NBNSC certifies other specialties such as physicians and dietitians as well as nurses. Each discipline is certified in nutrition support as it relates to their field. The certifications are different: CNSN for nurses, CNSD for dietitians, and CNSP for physicians. While there is some overlap, the test for nursing is specific to nursing.

REQUEST FOR
BOARD
RECOGNITION
OF NUTRITION
SUPPORT AS
SPECIALTY

A motion was made to explore more on the National Board of Nutrition Support Certification, Inc. (NBNSC) standards as well as other testing organizations to include psychometric criteria and to establish criteria for accepting new specialties. The motion received a second. The motion carried unanimously.

MOTION

Sheryl Russell of the Advanced Practice Committee (APC) reported that the committee is very active and looking at many advanced practice issues at this time. She reported that Carol Bennett has recently joined the committee representing mental health.

ADVANCED
PRACTICE
COMMITTEE

Public Board Member, James Rogers, tendered his resignation effective the end of his term on December 31, 2005. Mr. Rogers stated that he had enjoyed his tenure on the Board and that he enjoyed working with the Board members and staff.

RESIGNATION

The next regular meeting of the South Carolina Board of Nursing is scheduled for January 26-27, 2006.

NEXT MEETING

A motion was made to adjourn the meeting at 2:40 p.m. on November 17, 2005. The motion received a second. The motion carried unanimously.

ADJOURNMENT

Respectfully Submitted,
Dottie Buchanan, Administrative Assistant

SOUTH CAROLINA BOARD OF NURSING
POLICY ON EXPUNGEMENT OF PUBLIC REPRIMANDS

BACKGROUND:

Section 40-1-120(E) of the 1976 Code of Laws of South Carolina, as amended, provides that “[a] board may establish a procedure to allow a licensee who has been issued a public reprimand to petition the board for expungement of the reprimand from the licensee’s record.” Consistent with Section 40-1-120(A) in this context, a public reprimand is understood to be a formal and public censure or severe reproof administered to a person in fault by a licensing authority under which he practices that does not invoke any period of revocation, suspension, probation, or practice restriction. Expungement of the record means that all official records relating to the Board’s final decision (Final Order) shall be marked “Expunged” and no record of the matter shall be disclosed by the department, except when necessary to reflect that the matter has been expunged. The Board believes that licensees who have been issued a public reprimand for a first offense, after a suitable period of time, should not have to continue disclosing the existence of that sanction for the rest of their careers. However, a licensee should not be eligible to petition for expungement unless and until a period of not less than one year has transpired since the effective date of the Board’s final decision, during which time no additional violations have been charged or found, provided that the public reprimand is a first offense. If additional violations are charged and dismissed, then the licensee may petition the Board for expungement of the public reprimand as provided below. No licensee may have a public reprimand expunged under this policy more than once.

POLICY:

In accordance with Section 40-1-120(E), a licensee who has been issued a public reprimand as a sanction for a first offense violation for professional misconduct may petition the Board for expungement of the public reprimand from the licensee’s official record, after a period of not less than one year on the public record, if no additional charges or findings of misconduct have been filed. Upon granting the petition for expungement, all official records relating to the Board’s final decision shall be marked “Expunged” and no record of the matter shall be disclosed by the department, except when necessary to reflect that the matter has been expunged. The effect of expungement of a first offense public reprimand from the official records is to restore the licensee to the professional status occupied before the sanction was imposed. No licensee as to whom expungement has been granted shall be considered thereafter guilty of giving a false statement by reason of the failure to recite or acknowledge the violation in response to any inquiry made for any purpose.

PROCEDURE:

1. A designated staff member reviews the licensee's petition for expungement and the licensee's disciplinary record to determine eligibility for expungement of the public reprimand from the licensee's record, i.e., first offense, no prior expungement granted, not less than one year from effective date of Board's final decision. The licensee's petition for expungement must be in writing and may be in the form of a letter or e-mail memo requesting that action.
2. The designated staff member queries the compliance section to determine whether any additional charges are under investigation or in the process of formal proceedings.
3. If no disqualifying information is found, the designated staff member sends the licensee a letter notifying the licensee that the petition has been granted and that the official records concerning the public reprimand are being expunged. The letter should further advise that the licensee may lawfully answer "no" to any questions concerning the relevant facts or issuance of the expunged public reprimand. Appropriate notice of the expungement should be promptly sent to the NPDB/HIPDB for entry into their data systems.
4. The designated staff member notifies appropriate staff members to mark "Expunged" all official records relating to the Board's final decision (Final Order). No records that have been marked "Expunged" shall be disclosed by the department, except when necessary to reflect that the matter has been expunged. Staff shall advise inquirers that the matter has been expunged and that no further information may be disclosed concerning the matter.
5. Staff shall report to the Board expungements entered since the last report. The Board shall vote in public session to approve the report on the public record, so that expungement is reflected in the Board meeting minutes.

APPROVED by the Board 03-29-02.