SC DEPARTMENT OF LABOR, LICENSING AND REGULATION STATE BOARD OF NURSING POST OFFICE BOX 12367 110 CENTERVIEW DRIVE, SUITE 202, **COLUMBIA, SOUTH CAROLINA 29210**

BOARD MEETING MINUTES – SEPTEMBER 26-27, 2002

A regular meeting of the State Board of Nursing for South Carolina was held on September 26, PLACE OF 2002 in Room 108 and on September 27, 2002 in Room 111 of the Kingstree Building, 110 MEETING Centerview Drive, Columbia, South Carolina. Public notice of this meeting was properly AND FOIA posted at the Board of Nursing Offices, Kingstree Building, in the Lobby and provided to all **COMPLIANCE** requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. A quorum was present at all times.

Dr. Rose Kearney-Nunnery, Board President, called the Board of Nursing meeting to order at **CALL TO** 8:40 a.m. on Thursday, September 26, 2002, and at 8:35 a.m. on Friday, September 27, 2002, ORDER 2002. It was noted that a quorum was present at all times. The mission of the Board of Nursing 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.

This mission is accomplished by assuring safe initial practice as well as continuing competency in the practice of nursing and by promoting nursing excellence in the areas of education and practice. The Board licenses qualified individuals as licensed practical nurses or registered nurses. Complaints against nurses are investigated and disciplinary action taken when necessary. Schools of nursing are surveyed and approved to ensure quality education for future nurses.

Rose Kearney-Nunnery, RN, PhD, President Sylvia Whiting, RN, PhD, CS, Vice-President Debra J. Newton, LPN, Secretary Mattie Smalls Jenkins, LPN Brenda Y. Martin, RNC, MN James P. Rogers, Esquire, Public Member Keith A. Torgersen, RN, MSN, CRNA Suzanne Kanipe White, RN, MN, FAAN, FCCM, CNAA **BOARD MEMBERS** PRESENT AND **VOTING**

Martha Summer Bursinger, RN, MSN, Administrator Robert Barnwell, RN, Program Nurse Consultant-Practice Nancy Murphy, RN, MSN, Program Nurse Consultant-Licensing Cynthia F. Purvis, RN, M.N., Program Nurse Consultant-Education Donald W. Hayden, Regulatory Compliance Manager Richard P. Wilson, Deputy General Counsel Dottie Buchanan, Administrative Assistant

BOARD AND LLR STAFF **MEMBERS** PRESENT FOR CERTAIN **AGENDA ITEMS**

A motion was made to approve the agenda as presented. The motion received a second. The APPROVAL OF motion carried unanimously.

AGENDA

The following items were presented on the consent agenda:

APPROVAL OF **CONSENT AGENDA**

- 2.1a Licensure Statistics
- Recovering Professionals Program Update Jack White 4.1
- 4.2 Colleagues in Caring - Renatta Loquist
- 5.1 Summary Statistics on Advanced Practice
- 5.2 Minutes of NPSC August 22, 2002
- 5.3 Recommended Policy on Nursing Practice and Standards Committee
- 5.4 Recommended APRN Random Audit Letter for Implementation February 2002
- 5.5 Recommended Membership Appointment for NPSC
- 6.1 Approval of August 8, 2002 Disciplinary Review Committee (DRC) Minutes
- 6.2 Approval of August 27, 2002 Investigative Review Committee (IRC) Minutes
- Unlicensed Practice 6.3
- For Information: Deans & Director's Letter to SC Commission on Higher Education
- 7.4a For Information: NCLEX-RN Summary Statistics for April 1 to June 30, 2002
- 7.4b For Information: NCLEX –PN Summary Statistics for April 1 to June 30, 2002
- For Ratification: Licensure Recommendations
- 8.2 For Information: Licensure Announcements
- 8.3 Non-Routine Endorsement Application Documentation

A motion was made to adopt the Consent Agenda with the removal 2.1b - For Information: Disciplinary Process; 2.5a - Approval of June 2002 Advisory Committee on Nursing Minutes; 2.5b -Approval of August 2002 Advisory Committee on Nursing Minutes and 2.5c - Advisory Committee on Nursing Purpose and Rules. The motion received a second. The motion carried unanimously.

MOTION

Minutes of the July 25-26, 2002 Regular Board Meeting and September 6, 2002 Conference Call Board Meeting were presented to the Board for review and approval.

APPROVAL OF **MINUTES**

A motion was made to approve the July 25-26, 2002 Regular Board Meeting Minutes with editorial changes. The motion received a second. The motion carried unanimously.

MOTION

A motion was made to approve the September 6, 2002 Conference Call Board Meeting Minutes as presented. The motion received a second. The motion carried unanimously.

MOTION

ADMINISTRATOR'S REPORT

Mutual Recognition Via The Nurse Licensure Compact

Dr. Kearney-Nunnery, Ms. Bursinger and Ruby B. McClain, Assistant Deputy Director have met with Rita McKinney, Director of the South Carolina Department of Labor, Licensing and Regulation (SC LLR) regarding the National Council of State Boards of Nursing's Mutual Recognition via the Nurse Licensure Compact. They discussed the pros and cons of the Compact for South Carolina. Ms. McClain will provide additional information to Ms. McKinney for her consideration.

LICENSURE UPDATE

Continued Competence

Ms. Bursinger presented information on continued competency with several recommendations for consideration including combinations of practice hours and continuing education. Board members stated that new requirements for continued nursing competence need to be objective, streamlined, and not cause burdens on nurses, employers or board staff. The Board discussed several ways of measuring continued competence including peer review, practice portfolios, continued education, refresher courses, competency examinations, minimal practice hours, academic courses, specialty certifications and various combinations.

A motion was made to use practice portfolios as the continued competency requirement. The MOTION motion did not receive a second and failed.

A motion was made for a task force to develop a formal proposal for options for measuring MOTION continuing competency for Board review and approval at the Conference Call to be held on October 22, 2002. The motion received a second. The motion carried unanimously.

Mr. Rogers, Ms. Newton and Ms. White from the Board and Ms. Bursinger and Ms. Murphy from board staff will serve on the task force with Dr. Kearney-Nunnery consulting.

960 Hour Requirement

Ms. Bursinger reported that staff has recently received applications for endorsement from nurses without the required 960 practice hours whose licenses are on inactive status in other states. Licensure endorsement in South Carolina requires a current license in another state. One of the applicants without the required 960 practice hours wishes to re-take the NCLEX to receive a license in our state; however, the school has now closed and she cannot obtain her transcripts to submit with her application to test.

MOTION

A motion was made to allow staff to consider verification of a previous license from an equivalent state as satisfactory evidence of education as required in Regulations 91-13(c)(6) and 91-15(c)(6). The motion received a second. The motion carried with one nay vote.

Disciplinary Process

A motion was made to go into executive session to receive legal counsel regarding the Panel Hearings, Investigative Review and Disciplinary Review Committees. The motion received a second. The motion carried.

MOTION

A motion was made to return to public session. The motion received a second. The motion carried unanimously.

MOTION

A motion was made to remove all current board members from the pool of hearing officers for panels, Investigative Review Committee and Disciplinary Review Committee. The motion received a second. The motion carried unanimously.

MOTION

Professional Remediation Enhancement Partnership (PREP)

Ms. Bursinger reported that the S.C. Department of Mental Health has signed the Professional Remediation Enhancement Partnership (PREP) Memorandum of Understanding. Ms. Bursinger has spoken with James Walker of the S.C. Hospital Association regarding PREP. Mr. Walker has agreed to speak with some of the hospitals about this project. PREP will be discussed at the Citizens' Advocacy Center Annual Meeting in November 2002.

SPECIAL PROJECTS

Citizens' Advocacy Center Meeting

Ms. Bursinger, Ms. Martin and Mr. Hayden will attend the Citizens' Advocacy Center Annual Meeting in November 2002 and report to the Board at their next meeting.

Social Security Number Requirement

The National Council of State Boards of Nursing (NCSBN) reported that 44 member boards currently require a social security number for licensure. This requirement is often a point of concern for foreign applicants and their employers. Obtaining a United States social security number continues to be a problem for foreign nurses. Federal and South Carolina laws require the South (NCSBN)

NATIONAL **COUNCIL OF** STATE BOARDS **OF NURSING**

Carolina Board of Nursing to obtain social security numbers to issue a nursing license. The NCSBN (NCSBN) will be discussing this issue with the U.S. Social Security Administration.

NCLEX - International Testing

There was much discussion at Delegate Assembly and the vote to allow international testing was very close. International testing is designed to make the process to take the NCLEX for foreign education candidates more efficient. It is not intended to solve the nursing shortage in the United States.

Uniform Advanced Practice Registered Nurse Compact

The Uniform Advanced Practice Registered Nurse Compact was approved at the Delegate Assembly. They discussed medication schedules and continued competency.

Ms. Bursinger reported that the Advisory Committee on Nursing (ACON) is currently reviewing their Purpose, Rules and Procedures and will present them to the Board for approval along with an updated membership list.

ADVISORY COMMITTEE ON NURSING

Roger A. Ray, M.D., President of the South Carolina Board of Medical Examiners appeared before the Board of Nursing to discuss issues concerning both board and fulfilling the requirements in both the Medical Practice Act and the Laws Governing Nursing in South Carolina for the president (or their designee) of each board to provide consultation to and appear before the other board at least twice annually.

BD OF MEDICAL EXAMINERS – ROGER RAY, **PRESIDENT**

Mr. Barnwell reported that a review of the Medical University of South Carolina (MUSC) procedures have dispelled many of his concerns regarding Extracorporeal Membrane Oxygenation (ECMO.) The Board of Medical Examiners and Respiratory Care Practitioners Committee will obtain guidance from the S.C. Department of Environmental Control regarding compliance with their regulations in this area. A representative from MUSC assured the Board that nurses are providing nursing care, not respiratory care practitioners, but felt that respiratory care practitioners can supplement the team to expand service. The physician not a registered nurse delegates the practice of respiratory care. This issue will be discussed at the October 2002 Board of Medical Examiners Meeting.

ECMO

Mr. Barnwell appeared before the Board of Medical Examiners at their last meeting to discuss endoscopy performed by advanced practice registered nurses (APRN). Dr. Ray stated that the Board of Medical Examiners has questions about the credentialing in that area and does not feel that it is appropriate for APRNs at this time. Current law requires scope of APRN practice to be agreed upon by both the Board of Medical Examiners and the Board of Nursing. A regular forum is needed to create a list of procedures that APRNs may not perform rather than what they can perform. An example would be to bring into line cosmetic Botox injections and laser advisory opinions.

APRN **PRACTICE**

Dr. Ray reported that Draft 25 of the APRN revisions was very different from previous ones. Major changes need to be carefully reviewed. New items in this draft included deleting limit on number of APRNs supervised by a physician while keeping the mileage restriction. The law allows further distance with board approval. Dr. Ray stated that adding podiatrists would limit the APRNs practice to the legal and practical limits of podiatry. Expansion of prescriptive authority for controlled substances will be discussed at the October Board of Medical Examiners Meeting.

APRN DRAFT #25

Dr. Ray thanked the Board of Nursing members and staff for the work the boards have done together and the open communication between the boards.

At a recent meeting, the Board of Pharmacy administrator requested that Ms. Bursinger ask BOARD OF advanced practice registered nurses (APRN) with prescriptive authority to write their prescriptions **PHARMACY**

more clearly. They reported that pharmacists are having trouble reading the handwriting on some **PHARMACY** prescriptions and that at times it is difficult to contact practitioners to confirm the prescriptions. The Board of Pharmacy Administrator said that APRNs are not being singled out. They are asking all prescribing practitioners to make this effort.

PRESIDENT'S REPORT

Board President Dr. Kearney-Nunnery appointed Board Members Brenda Martin and Keith Torgersen to serve on the Nominating Committee for 2003 Board of Nursing Officers. The Committee will present a list of nominations at the November 21-22, 2002 Board Meeting.

NOMINATING COMMITTEE -2003 OFFICERS

The 2003 Meeting Calendar of the Board, Advisory Committee on Nursing, Disciplinary Review Committee, Investigative Review Committee, Nursing Practice and Standards Committee, National Council of State Boards of Nursing Mid-Year and Annual Delegate Assembly as well as full evidentiary hearings was presented for review and approval. The Board asked that the May 28, 2003 Planning Retreat be added to the calendar.

APPROVAL OF 2003 BOARD & **COMMITTEE MEETING** DATES

A motion was made to approve the 2003 Board of Nursing Calendar with the addition of the May 28, 2003 Planning Retreat. The motion received a second. The motion carried unanimously.

MOTION

REPORTS/UPDATES

Stephanie Burgess appeared before the Board to provide an update on the revisions to the advanced practice registered nurse (APRN) portion of the nurse practice act. Ms. Burgess reported that the draft has not been approved or endorsed by all groups. Comments received were included in the revisions. Mr. Wilson's assistance will be required regarding statutory language in some areas. This draft included: 1) Physicians retain supervision of APRNs. Retained current references to collaboration currently in the Nurse Practice Act; 2) Expansion of controlled substances to include schedules III - V. Classifications of controlled substances to be stipulated in the written scope of practice guidelines and would vary from practice setting to practice setting; 3) Replace protocols with written scope of practice guidelines developed by the APRN and the physician. This process is similar to what is required now for protocol development; 4) Replace official recognition with APRN licensure; 5) APRN licensure to be based on credentials, not employment setting; 6) Duplicate prescriptions are eliminated but prescriptions continue be documented in the patient's record; 7) Separate definitions for nurse practitioner (NP), certified nurse midwife (CNM), clinical nurse specialist (CNS), and certified registered nurse anesthetist (CRNA.); 8) CNSs, who do not prescribe medication, do not need to apply for APRN licensure. No change from current language; 9) After December 31, 2003, CRNAs must have a master's degree in anesthesia; 10) Delete terms "extended" and "delegated;" 11) Added language that stipulates that APRNs (NP, CNM, and CNS) who fail to use competent judgment regarding prescriptive authority are subject to discipline: 12) Added podiatrist to the group of physicians who can work with APRNs; and 13) Deleted the number requirement of APRNs supervised by a physician. Kept the mileage requirement. The Committee may consider full time employees (FTE) in regards to the number of APRNs supervised.

APRN DRAFT 25

Ms. Burgess is scheduled to appear on October 30, 2002 at the S.C. Board of Medical Examiners Meeting to discuss the latest APRN draft and will report at the November 2002 Board of Nursing meeting.

Mr. Wilson introduced Mary Law who is assisting legal counsel and board staff with the revisions to the Nurse Practice Act. The current draft of the nurse practice act is being reviewed and edited. The edited draft will be presented to the committee and staff for further review and revision in the **REVISION**

NURSE PRACTICE ACT next few weeks. COMMITTEE

Ms. Martin reported that the task force would meet on the recommendations from the Unlicensed Assistive Personnel (UAP) Summit held in October 2001 and to clarify the tasks based on comments from the summit before making recommendations to the Board. They will also review delegation. This will be a separate effort from the practice act revision.

UAP TASK FORCE

PROGRAM NURSE CONSULTANT - PRACTICE

Advisory Opinions #10a/10b, #17, #28, and #35 have been reviewed and revised by the Nursing Practice and Standards Committee and were submitted for Board review and approval. Advisory Opinion #43 is a new opinion presented to the Board for review and approval.

RECOMMENDE D NEW/REVISED ADVISORY OPINIONS

Advisory Opinion #10a/10b

The revision to Advisory Opinion #10a/10b allows the discontinuance of patient controlled analgesic (PCA) pump therapy by a licensed practical nurse (LPN) but does not extend their scope with patient controlled analgesia. Changes also limit the LPN practice by not allowing the administration of chemotherapeutic agents, which in current practice means chemical agents used in oncology. Advisory Opinion #10b now includes guidance, which previously appeared in Advisory Opinion #35. The supplemental cardiovascular invasive devices chart is also being revised, but finalization awaits approval of these advisory opinions for consistency.

A motion was made to send Advisory Opinions #10a and #10b back to Committee for resolution concerning LPN practice with central lines. The motion received a second. The motion carried unanimously.

MOTION

Advisory Opinion #17

The revision to Advisory Opinion #17 reflects that ½% Xylocaine is often not available and has been replaced by 1% in current practice. The Committee recommends that actual medication dosages not be addressed in advisory opinions; therefore, the concentration of Xylocaine has been deleted.

A motion was made to approve the revisions to Advisory Opinions #17 as presented. The motion received a second. The motion carried unanimously.

MOTION

Advisory Opinion #28

The revision to Advisory Opinion #28 includes the deletion of the requirement for one year of LPN practice experience. The one year practice experience has been removed from all other advisory opinions. The Committee believes skill competency must be evaluated regardless of the years of practice, and that training and demonstrated competence exceed any requirement for one year's experience. No other changes were made.

A motion was made to approve the revisions to Advisory Opinions #28 as presented. The motion received a second. The motion carried unanimously.

MOTION

Advisory Opinion #35

The revision to Advisory Opinion #10b included the incorporation of practice guidance related to starting intravenous infusions and administering intravenous medications from Advisory Opinion #35. This advisory Opinion now addresses only the additional acts of LPNs for charge duty and practice in intensive care units.

A motion was made to approve revisions to Advisory Opinions #35 with an editorial change. The motion received a second. The motion carried unanimously.

MOTION

Advisory Opinion #43

This is a new advisory opinion based on a request by the United States Department of Transportation (US DOT) and attorneys representing clients in trucking and health care. Due to a citation by US DOT for allowing registered nurses (RN) to perform US DOT medical examinations, the Board was asked whether RNs could function as licensed medical examiners under federal regulations. The federal regulation states, "Medical examiner means a person who is licensed, certified, and /or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic." The Committee has read extensively and heard from industry attorneys, physician, RNs, occupational health consultants, advanced practice registered nurses (APRN), the Board administrator and attorney, trucking companies and trucking advocacy group. Members of the Occupational Health Nursing Association Board were surveyed and the overwhelming consensus was that a medical examiner had to be in one of the health care provider categories defined in the regulation. A Committee task force was appointed. There are many versions of the US DOT medical/physical examination forms being used and modified but all are based on the same federal regulations. In South Carolina, Board of Education Transportation Regulation 43-80N requires school bus drivers to be examined by a medical physician. There is some confusion on the difference between performing a nursing assessment versus performing a physical or medical examination as defined in federal regulation. There is pending litigation with the trucking companies concerning RNs who are performing these examinations in South Carolina. The Committee considered this practice question as to what is safe and competent nursing practice based upon the requirements set by the U.S. Department of Transportation and not the peripheral issues. The Committee has given this question due process and unanimously recommends the Board advise that US DOT examinations are not within the scope of practice for RNs who are not also APRN.

A motion was made to approve Advisory Opinions #43. The motion received a second. The motion carried unanimously.

MOTION

REGULATORY COMPLIANCE MANAGER

The Board reviewed the Findings of Fact, Conclusions of Law and Recommendations for cases **CERTIFIED** heard by the Hearing Panel.

PANEL REPORTS

Dr. Whiting and Ms. Martin recused themselves on cases #6.4a and #6.4b because they had served on the Investigative Review Committee for these cases. A quorum was present for review and voting on all cases.

6.4a Although properly notified, Respondent did not appear to respond to questions from the Board. The Hearing Panel found that Respondent was in violation of Section 40-33-935(g)(Supp. 2001) and Regulation 91-19(c)(3). The Hearing Panel recommended that the probation imposed by the Board order dated November 29, 2001 be extended for an additional six months and that within thirty days of the Board's final order, Respondent pay a \$50 civil penalty.

A motion was made to accept the Hearing Panel's Findings of Fact, Conclusions of Law and Recommendations. The motion received a second. The motion carried unanimously.

MOTION

6.4bAlthough properly notified, Respondent did not appear to respond to questions from the Board. The Hearing Panel found that Respondent was in violation of Sections 40-33-935(b), (f), and (g)(Supp.2001) and Regulations 91-19(c)(3)(b), (c), (f), (j), and (p). The Hearing Panel recommended that Respondent's license be revoked.

A motion was made to accept the Hearing Panel's Findings of Fact, Conclusions of Law and Recommendations. The motion received a second. The motion carried unanimously.

MOTION

6.4c Although properly notified, Respondent did not appear to respond to questions from the Board. The Hearing Panel found that Respondent was in violation of §§40-33-935(b) and (g) (Supp.2001). The Hearing Panel recommended Respondent's license be suspended for a period of not less than six months, provide that said suspension may be immediately stayed and Respondent's license reinstated on a probationary status for a period of six months. However, prior to the suspension being stayed, it shall be required that Respondent be evaluated by the Recovering Professionals Program (RPP) and that a written report and recommendation be provided to the Board which addresses the Respondent's ability to practice safely, and recommendation for monitoring and/or treatment and that Respondent be required to comply with any and all recommendations made by the RPP.

A motion was made to accept the Hearing Panel's Findings of Fact, Conclusions of Law and Recommendations. The motion received a second. The motion carried unanimously.

MOTION

NURSE CONSULTANT – EDUCATION

Central Carolina Technical College Associate Degree Nursing Program (CCT) requested approval to employ a faculty member, Letra Davis-McDuffie, without a master's degree in nursing. Dr. Whiting recused herself from discussion and voting.

APPROVAL OF FACULTY CENTRAL **CAROLINA TECHNICAL COLLEGE**

Ms. Davis-McDuffie is currently teaching in Central Carolina Technical College's Practical Nursing Program and is pursuing a Masters of Science in Nursing degree through the University of Phoenix. The College and Ms. Davis-McDuffie have entered into a Memorandum of Understanding (MOU) which commits her to timely completion of the degree, college assignment of a mentor, and her assignment to courses that require team teaching effort without course management responsibilities. This MOU will become effective if the Board of Nursing approves this request. Central Carolina Technical College has also agreed to provide some financial assistance for the course work.

A motion was made to approve Letra Davis-McDuffie as a faculty member for Central Carolina Technical College Associate Degree Nursing Program contingent upon her compliance with the Memorandum of Understanding. The motion received a second. The motion carried unanimously.

MOTION

Orangeburg-Calhoun Technical College Practical Nursing Program

The Board reviewed the survey report and program nurse consultant recommendations for Orangeburg/Calhoun Technical College Associate Degree Nursing program conducted on June 20, 2002.

SURVEY VISIT REPORTS:

A motion was made to continue full approval for three years for Orangeburg/Calhoun Technical College Associate Degree Nursing program. The motion received a second. The motion carried unanimously.

MOTION

Ms. Purvis reported that she had just received a letter from Jane T. Upshaw, Ph.D. of the University of South Carolina-Beaufort regarding their intent to establish a generic bachelor of science in nursing degree program. Dean Upshaw reported that the steps in this process are taking longer than **GENERIC BSN** anticipated. A new time line is being developed.

INTENT TO ESTABLISH PROGRAM

Friday, September 27, 2002

NURSE CONSULTANT – LICENSING

Examination candidates and endorsement applicants with convictions and/or prior disciplinary action appeared before the Board requesting approval of their applications for licensure.

SPECIAL APPEARANCES

NCLEX-PN Candidate. Candidate was properly notified and appeared before the Board of Nursing with mother but without counsel to respond to questions from the Board.

A motion was made to allow the candidate to take the NCLEX-PN and upon successful completion be licensed as a licensed practical nurse in South Carolina. The motion received a second. The motion carried unanimously.

MOTION

NCLEX-RN Candidate. Candidate was properly notified and appeared before the Board of Nursing without counsel to respond to questions from the Board.

A motion was made to allow the candidate to take the NCLEX-RN and upon successful completion be licensed as a registered nurse in South Carolina. The motion received a second. The motion carried unanimously.

MOTION

NCLEX-RN Candidate. Candidate was properly notified; however, did not appear before the 9.3 Board of Nursing to respond to questions from the Board.

A motion was made to allow the candidate to take the NCLEX-RN and upon successful completion be licensed as a registered nurse in South Carolina with the continuation of the agreement entered into as a licensed practical nurse. The motion received a second. The motion carried unanimously.

MOTION

A motion was made to adjourn the meeting at 12:00 p.m. on Friday, September 27, 2002. The ADJOURNMENT motion received a second. The motion carried unanimously.

Respectfully Submitted, Dottie Buchanan, Administrative Assistant