



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	BOARD OF NURSING Meeting Minutes
DATE AND TIME:	Wednesday, September 12, 2012 at 9:00 a.m.
PLACE:	Cannon Building, Second Floor Conference Room A 861 Silver Lake Blvd., Dover, DE 19904
Minutes Approved:	October 10, 2012

MEMBERS PRESENT

Evelyn Nicholson, President, Public Member
Robert Contino, RN, Vice President, Nurse Educator Member (left the meeting at 1:50 p.m.)
Pamela Tyranski, RN Member
Robert Maddex, Public Member
Harland Sanders, Public Member
Madelyn Nellius, Public Member
Mary Lomax, Public Member
Delphos Price, APN Member
David Salati, RN Member
Tracy Littleton, LPN Member
Kathy Bradley, LPN Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

Patty Davis-Oliva, Deputy Attorney General
Pamela Zickafoose, Executive Director
Sheryl Paquette, Administrative Specialist III
Sandra Wagner, Administrative Specialist III

MEMBERS ABSENT

Dianne Halpern, RN Member
Gwelliam Hines, RN Member
Lyron Deputy, RN Member

ALSO PRESENT

Eleanor J. Schwandt, Wilcox and Fetzer
Suzanne Raab-Long
Robin Maracle
Tammy Paxton, DTCC-Owens Campus
Pat Welsh, DTCC-Stanton Campus
Joy Magee
Joann Baker, DTCC-Terry Campus

L.A. Maberry
Barbara J. Robinson, Leads School
Connie Bushey, M.H. Rollins School of Nursing at Beebe Medical Center
Jennifer Cooper
Andelasha Frink
Shawn Walker

Ms. Nicholson called the meeting to order at 9:10 a.m. The Board introduced themselves to the public.

REVIEW OF MINUTES

The Board reviewed the minutes of the meeting held on July 11, 2012. Mr. Sanders made a motion, seconded by Mr. Maddex, to approve the minutes. By unanimous vote, the motion carried.

ADOPTION OF THE AGENDA

Mr. Price made a motion, seconded by Ms. Tyranski, to adopt the amended agenda. By unanimous vote, the motion carried.

ACTIVITIES REPORT

Dr. Zickafoose provided the report of the number and types of active licenses as of September 11, 2012.

Total Active Licenses = 19,565

APN = 1,223

RN = 15,517

LPN = 2825

Total permits 32

UNFINISHED BUSINESS

There was no unfinished business for Board review.

COMMITTEE REPORTS

APN Committee – Mr. Price reported three Consensus Model Town Hall meetings were conducted with 20 APNs attending at Terry Campus, 21 APNs at Owens Campus, and 63 APNs at Stanton Campus. He stated Dr. Prettyman did an excellent job with the presentations. The committee has scheduled Town Hall meetings at the various institutions: Christiana, A.I. DuPont, Beebe, and Bayhealth. They also will present the Consensus Model to leadership in the state. Mr. Price said he supports the model but to move forward the committee needs Board support and approval. Mr. Price made a motion, seconded by Mr. Contino, to adopt the APN Consensus Model as written. The motion carried unanimously.

AWSAM Committee – Ms. Tyranski reported the committee met on July 17th. The committee had completed a lot of robust work and they still are working on some standard definitions to incorporate into the LLAM structure. Ms. Tyranski said the committee looked at what other unrelated organizations, such as the Boy Scouts, do to manage the medication process on outings and camping trips. She said the committee also realizes that it falls outside the Nurse Practice Act but they feel they should look at everybody's best practices and try to come up with something that incorporates a lot of different thinking.

Ms. Tyranski reported there was a lot of discussion about certificates. She said while the AWSAM course does not produce a certificate, per se, the committee has found that in some child care centers and child care licensing they preferred to have a certificate because they felt it was easier for HR

purposes, as well as making it easier for licensing entities to evaluate whether or not the staff has been properly trained and re-trained with certification and re-certification. It is important to note that this is not a certification, such as a CNA would be certified, and the committee feels very strongly that this should not be categorized as a certificate. The committee is still working on how to produce documentation for course completion. A couple committee members have processes that track this information without producing a certificate. Ms. Tyranski said Dr. Richardson agreed to lead a curriculum subcommittee, which will form once resumes are submitted. They will also consider pilot test centers once the curriculum is developed/revised. The medication aide pilot through DHSS had no report to the committee. The next meeting for this committee will be September 18th in Dover at 5:00 p.m. Ms. Nicholson suggested the committee might consider using the wording "documentation of attendance" and Dr. Contino suggested "course completion."

PRESIDENT'S REPORT

Ms. Nicholson reported that during the month of August, no regular Board meeting was held and the Board's Hearing Panel did not meet; however, the Board held an Emergency Hearing on August 29, 2012. She said she appreciated the dedicated service given by all the members of the Board.

EXECUTIVE DIRECTOR'S REPORT

Dr. Zickafoose submitted a written report but commented she attended the NCSBN Annual Meeting in Dallas, TX in August along with Ms. Tyranski, who would give that report later in the meeting.

Dr. Zickafoose talked about data reporting. She explained that 98.8% of errors are resolved or corrected and all consent agreements are attached. She said it will be possible to view Board Orders online, and then passed out the links for them. Dr. Zickafoose stated there are 8050 archived records in the online database in Filebound. She said it is much easier to find records using this system and she is very proud of the work the staff has done to accomplish this. Dr. Zickafoose also thanked everyone for all the hard work, knowledge, and expertise they bring to this Board.

NEW BUSINESS BEFORE THE BOARD **LICENSEE APPLICATION REVIEWS**

By Examination

Queen Madu, GPN – Ms. Madu graduated from Leads School of Technology on 7/21/2012. Her CBC showed retail theft on 6/24/10. Disposition paperwork and three letters of reference were submitted. Her letter of explanation said she was at the wrong place at the wrong time with a wrong friend. Question number 19 was answered with a "yes" and an explanation "summary ticket related to a retail theft." Mr. Price made a motion, seconded by Ms. Tyranski, to grant a waiver to Ms. Madu to sit for the exam. By unanimous vote, the motion carried.

Winnie Kanguchu, GPN – Ms. Kanguchu graduated from Camtech in September 2008. She is outside the two-year rule. She took the NCLEX-PN on 2/6/09, 6/22/09, 11/5/09, 3/19/10, and 6/3/10, and failed five times. Her petition to retest stated she took a 7-day review course for RN/LPN at America Healthways and Education, NCSBN Learning (twice) and studied Saunders. Board members questioned, and it was determined, that Ms. Kanguchu was within the six-month limit for the review course. Dr. Contino made a motion, seconded by Mr. Price, to grant a waiver to Ms. Kanguchu to sit for the exam. By unanimous vote, the motion carried.

Freda Fistzgiles, GPN – Ms. Fistzgiles graduated from DTCC, Dover in May 2012. Her CBC shows possession of marijuana and hash on 3/15/98. Disposition paperwork and three letters of reference were submitted. Her letter of explanation said she was young and living with her mother who was very ill, and the stress of the situation contributed to a lack of judgment on her part. Question number 19 was

answered with a “yes” and an explanation to “please see background.” Dr. Contino made a motion, seconded by Mr. Sanders, to grant a waiver to Ms. Fiszgiles to sit for the exam. By unanimous vote, the motion carried.

Ms. Nicholson asked Board staff about the date on the application form being November, 2011. Dr. Zickafoose stated all forms were updated and corrected in August, 2012.

By Endorsement

Umeka Anderson, RN – Ms. Anderson graduated from Delaware County Community College in June 2009. She is currently licensed in Pennsylvania. Her CBC shows contempt for violation of order on May 26, 2011. This is listed as Board rule 15.5.36 of crimes substantially related to the practice of nursing. Her letter of explanation said this was a misdemeanor conviction and on June 23, 2011 she was found guilty of indirect criminal contempt resulting in a conviction for violation of protection from abuse order. Further explanation stated she was in a custody dispute with the children’s father and missed a court date. Disposition paperwork showed the final protection from abuse remains in effect and expires on 5/19/2014. One letter of positive reference was submitted. Question #21 was answered with a “yes” and “please see attached.” After Board member discussion about the PFA order, Ms. Davis-Oliva informed the Board that a PFA is not a basis for denying and they must focus on the crime. Mr. Price made a motion, seconded by Ms. Nellius, to grant a waiver to Ms. Anderson for licensure by endorsement. With Mr. Salati abstaining, the motion carried by majority vote.

Allison Fayock, RN – Ms. Fayock graduated from Luzerne County Community College in May 2004. She is currently licensed in Pennsylvania. Her license was disciplined in PA and she is participating in the PA Voluntary Recovery program. Dr. Zickafoose spoke with her on the phone, and Ms. Fayock is more than willing to participate in the DE VTO program (which will collaborate with the PA program) if she is granted a DE license. Her letter of explanation said she has been sober for 15 months and she entered the PA program Feb. 10, 2011. PA gave a stayed suspension provided she participates in the monitoring program, of which she is in compliance. PA monitors nurses for 3 years. She answered question numbers 18 and 23 honestly. Mr. Price made a motion, seconded by Ms. Bradley, to grant a waiver to Ms. Fayock for licensure by endorsement, with the condition she continues in the DE VTO program for 3 years. By unanimous vote, the motion carried.

Tricia Harvey, LPN – Ms. Harvey went to DTCC-Stanton, but did not graduate; however, the state of Florida allowed her to take the NCLEX-PN on 7/5/2011 and she passed the test. She is licensed in Florida and has come back to Delaware and re-enrolled at DTCC in the RN program. She requested licensure as an LPN in Delaware. Dr. Contino made a motion, seconded by Mr. Price, to grant a waiver to Ms. Harvey for licensure by endorsement. By unanimous vote, the motion carried.

Terese Hensel, RN – Ms. Hensel graduated from Ocean County College in May 1983. She was licensed in New Jersey in 1983. She came into the office and reported that she has not worked for the past five years. Her letter stated traveling to Dover for a refresher course would be a hardship and costly. She requested a supervised practice plan. She did not write in any dates of employment on her application because she has not worked the past five years. She did volunteer for New Jersey Eastern Star, which was written on her application. Mr. Price made a motion, seconded by Mr. Maddex, to deny the supervised practice plan and recommend Ms. Hensel take a refresher course before licensure by endorsement. By unanimous vote, the motion carried.

Mr. Theodore Kokroko, LPN – Mr. Kokroko graduated from Kellogg Community College in 1989 from their practical nursing program. He was originally licensed by exam in Michigan in 1989. His application (question #18) stated he was disciplined in Arkansas. A letter submitted from the Arkansas Board of Nursing stated his LPN license was placed on probation for two years and the license is now off

probationary status. One positive letter of reference was submitted. Dr. Lomax made a motion, seconded by Ms. Littleton, to grant a waiver to Mr. Kokroko for licensure by endorsement. With Mr. Price abstaining, the motion carried by majority vote.

Mr. John Marsteller, RN – Mr. Marsteller graduated from St. Vincent Medical Center in 1963. He was originally licensed in Iowa in 1963. He has been working in New Jersey since 1997. In December 2008 he was disciplined in New Jersey for misusing his license to practice nursing to obtain from his employers medication that he gave to his dogs. He misrepresented himself to the public as a medical doctor and failed to report to the Board that he was named and found liable in a malpractice suit. A letter dated October 21, 2011 from the New Jersey State Board of Nursing said his license is in good standing and no longer subject to restriction or encumbrance. He applied for both RN and APN licenses. For the APN license he states he cannot get the transcripts but has his diploma. Question #18 on the RN application was marked “no” and question # 24 on the APN application was not answered (both questions refer to the discipline of license). Dr. Contino made a motion, seconded by Mr. Maddex, to deny RN & APN licensure to Mr. Marsteller based on the untruthfulness on his applications, as the Board feels he is trying to deceive them. By unanimous vote, the motion carried.

By Reinstatement

There were no reinstatement applications for Board review.

Advanced Practice Nurse

There were no applications for Board review.

Renewal

There were no renewal applications for Board review.

ASSIGNMENTS/ASSIGNED BOARD CONTACT PERSON

Ms. Littleton made a motion, seconded by Dr. Lomax, to ratify the following complaint assignments given to the respective Board contact person, as amended. By unanimous vote, the motion passed.

11-53-12 Lomax	11-54-12 Salati	11-55-12 Salati	11-56-12 Salati
11-57-12 Bradley	11-58-12 Hines	11-59-12 Sanders	11-60-12 Tyranski
11-61-12 Deputy	11-62-12 Price	11-63-12 Deputy	11-64-12 Hines
11-65-12 Littleton	11-66-12 Halpern	11-67-12 Hines	11-68-12 Price
11-69-12 Tyranski	11-70-12 Bradley	11-71-12 Deputy	11-72-12 Lomax
11-73-12 Nellius	11-74-12 Lomax	11-75-12 Halpern	

CLOSED COMPLAINTS

Closed complaints do not need a vote; they are for information only to get into the record.

Dismissed by the Attorney General's Office

11-33-08	11-86-08	11-60-09	11-66-09	11-63-10
11-54-09	11-03-11	11-20-11	11-51-11	11-71-11
11-77-11	11-43-12			

Closed Investigations by the Division of Professional Regulation

11-73-10	11-34-11	11-35-11	11-36-11	11-47-11
11-51-11	11-76-10			

Mr. Price stated he has recently worked on a number of complaints and he wanted to compliment all the Investigators for the great job they do. He said they put a lot of detail and research into their work, and they should be recognized by this Board. He extended a "Thank You" to the Investigations team and Board members concurred.

Ms. Davis-Oliva informed Board members that DAG letters for closed cases would include reasons why the case was closed.

HEARINGS/CONSENT AGREEMENTS – RATIFICATION & SIGNATURE

Consent Agreement(s)

Robin Driscoll-Deruvo - Board members reviewed the consent agreement. Ms. Driscoll-Deruvo agreed to a letter of reprimand. Mr. Sanders made a motion, seconded by Ms. Bradley, to accept and approve the consent agreement as written. By majority vote, the motion carried with Ms. Tyranski abstaining.

Connie Biddle Pepper & Ms. Catherine Snow Billops – Ms. Davis-Oliva said with the Board's permission, she would like to present both Ms. Pepper's and Ms. Billop's consent agreements at the same time as they share the same nucleus of fact. The Board gave her permission to present them at the same time. Board members reviewed the consent agreements. Ms. Tyranski made a motion, seconded by Ms. Nellius, to accept and approve the consent agreement for Ms. Pepper as written. By majority vote, the motion carried with Mr. Salati abstaining. Mr. Price made a motion, seconded by Ms. Bradley, to accept and approve the consent agreement for Ms. Billops as written. By majority vote, the motion carried with Mr. Salati abstaining.

Jonell Miller Garrett - Board members reviewed the consent agreement. Ms. Garrett agreed a 2-year probation is warranted and she will take additional education on documentation (5.4 hour course or equivalent) within one year. Ms. Nicholson made an editorial change on page 2, number 5, by adding the word "be." Members discussed the sanctions and did not feel they were appropriate, suggesting suspension instead of probation, due to the severity of the complaint. Mr. Sanders made a motion, seconded by Mr. Price, to not accept the consent agreement as written. By majority vote, the motion carried, with Ms. Bradley, Ms. Littleton, and Dr. Contino abstaining. Ms. Davis-Oliva will forward suggestions to the DAG.

Hearing Panel Findings/Decisions/Orders

There were no Hearing Panel Findings/Decisions/Orders this month.

Hearing Officer Recommendations

Christine McCorkle, LPN

Board members reviewed the recommendation from the Hearing Officer with Ms. Davis-Oliva describing the reason for the hearing that was held. Members discussed the sanctions and determined they were too harsh. Ms. Tyranski made a motion, seconded by Ms. Bradley, to change the sanction from probation to a letter of reprimand, while keeping the same continuing education requirements in the original agreement. By unanimous vote, the motion carried.

Dominic Mulwa, LPN

Board members reviewed the recommendation from the Hearing Officer with Ms. Davis-Oliva describing the reason for the hearing. Ms. Nicholson made an editorial change to the second paragraph where the number "4" is duplicated, and on the introductory letter where it is addressed to "Ms." Instead of "Mr." Mulwa. Mr. Salati reported a typographical error on page 6 in spelling the word "alcohol." Board members discussed levels of probation and the timeline of DUI offenses. Mr. Sanders made a

motion, seconded by Mr. Maddex, to accept the consent agreement as written. With Ms. Nellius recusing, the motion carried.

Mary Wharton, RN

Board members reviewed the recommendation from the Hearing Officer with Ms. Davis-Oliva describing the reason for the hearing. Members also reviewed the letter submitted by Ms. Wharton requesting to not be put on probation. The original order was clarified for the Board because Ms. Wharton's license was not on probation as stated in the recommendation on page 11. Mr. Price made a motion, with Mr. Sanders seconding, to accept the Chief Hearing Officer's recommendation with a change to number 1 of the recommendations to "place" the nursing license on probation for two years. By unanimous vote, the motion carried.

DISCIPLINARY HEARINGS

Hearing minutes follow the regular Board minutes.

LEGISLATIVE UPDATE

Dr. Zickafoose said the Delaware Nurses' Association is considering two bills this year. The first bill would allow APNs to sign death certificates. The other bill would amend Title 11, which protects healthcare providers (for instance, EMTs, etc.) from violent persons. A new law would expand this to inpatient settings.

REVIEW OF COMPLIANCE

Dr. Zickafoose informed the Board that Mr. Victor Strazzella has met all his requirements. He is requesting his probation be lifted. Mr. Price made a motion, seconded by Ms. Bradley, that the Board lift his probation. By unanimous vote, the motion carried.

PRACTICE WITHOUT LICENSURE REVIEWS

There were no practice without licensure reviews.

PRACTICE ISSUES

Position Statements

Ms. Nicholson stated there was an additional position statement "Replacement of Gastrostomy Tube" that was not sent to Board members and that all six position statements were dated between 1990 and 1997. Dr. Zickafoose stated the position statements currently listed on the DPR website are outdated. Opinions expressed by the Board members were that the position statements should be removed. Ms. Davis-Oliva added the Board does not have jurisdiction to issue position statements and they were not legally defensible. Mr. Price commented these were not consistent with national standards, adding that in Delaware nitrous oxide is a general anesthetic. Dr. Zickafoose added that Section 7 of the Board's Rules and Regulations state that professional nursing specialty organization standards and/or position statements may be used to determine scope of practice. Mr. Salati made a motion, seconded by Ms. Tyranski, to discontinue the position statements currently on the DPR website, and to have the Board refrain from making future position statements. With Mr. Price abstaining, the motion carried by majority vote.

EDUCATIONAL ISSUES

DTCC, Stanton - RN Refresher Course

Dr. Contino stated that the Stanton DTCC RN refresher course was revised to reflect the most recent Rules and Regulations. He said the Practice & Education Committee reviewed and approved the revisions by email. Dr. Contino made a motion on behalf of the Practice & Education Committee to approve the revisions to the DTCC RN Refresher course. By unanimous vote, the motion carried.

DTCC, Owens – Anka Behavioral Health

Dr. Contino stated that DTCC Owens campus was requesting approval to use Anka Behavioral Health in Georgetown as an additional clinical site. His recommendation and motion on behalf of the Practice & Education Committee was to allow this new clinical site. By unanimous vote, motion carried.

Citizens Advocacy Center Annual Meeting

Dr. Zickafoose said this meeting is scheduled for October 25th and 26th in Florida. She said members of the public, as well as nurses, are welcome to attend. She asked anyone interested in attending to please let her know.

CE Provider Renewal

Dr. Zickafoose recommended the Board approve renewal of Delaware Hospice as a CE provider. They provided all the necessary documentation and meet the requirements. Mr. Price made a motion, seconded by Ms. Bradley, to approve Delaware Hospice as a provider. By unanimous vote, the motion carried.

Dr. Zickafoose recommended the Board approve renewal for the Delaware Healthcare Facilities Association. They provided all the necessary documentation. Ms. Nellius made a motion, seconded by Ms. Littleton, to renew Delaware Healthcare Facilities Association as a provider. By unanimous vote, the motion carried.

Dr. Zickafoose said she is receiving requests for renewal from some earlier providers with the three digit provider number. These will eventually be transitioned into the new numbering system. Ms. Paquette will be notifying all providers about the Rules & Regulation changes to Section 9 and when their renewals are due.

LICENSURE ISSUES – LPN License Audit

Dr. Zickafoose said the 2012 LPN audit is post-renewal which must be completed within 6 months of renewal. Audit letters were sent to 86 LPNs totaling approximately 3% of the LPN licensees. Out of those 86, 47 were in compliance, 13 have not responded at all, 21 still have documents outstanding, and 5 licensees have special circumstances for not turning in their requested documents. Dr. Zickafoose said the compliance rate for this audit is 54.65%, which is not very good. She said she would like to include a statement in the February 2013 RN audit letter to remind licensees to keep their CE certificates for at least 6 months after license renewal. After considerable discussion regarding the lack of hardship language in the Board's Rules & Regulations at 9.6.1.4, it was determined that all the unsatisfactory audits would result in Board action. Dr. Lomax made a motion, seconded by Mr. Maddex, to forward all the unsatisfactory audits to the Hearing Officer for Rule to Show Cause hearings. With Mr. Salati opposing, the motion carried.

NCSBN ANNUAL MEETING REPORT

Ms. Tyranski provided a brief report verbally and directed members to see the written report.

LICENSEE RATIFICATION

Mr. Price made a motion, seconded by Ms. Littleton, to ratify the licensee list. By unanimous vote, the motion carried.

PUBLIC COMMENT

There was no public comment.

NEXT SCHEDULED MEETING

October 10, 2012 - 9:00 a.m.

861 Silver Lake Blvd., Cannon Building, Conference Room A, Dover, DE 19904.

ADJOURNMENT

The meeting adjourned at 3:00 p.m.

Respectfully Submitted,

A handwritten signature in black ink that reads "Pamela C. Zickafoose". The signature is written in a cursive style with a prominent initial 'P'.

Pamela C. Zickafoose, EdD, MSN, RN, NE-BC, CNE
Executive Director, Delaware Board of Nursing

HEARING MINUTES

HEARING – Jennifer Cooper

The Delaware Board of Nursing held a hearing on September 12, 2012, at 11:00 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: Evelyn Nicholson, Bob Contino, Pam Tyranski, Bob Maddex, Harland Sanders, Madelyn Nellius, Mary Lomax, Delphos Price, David Salati, and Kathy Bradley

RECUSED: Tracey Littleton

EXCUSED: Diane Halpern, Gwelliam Hines, and Lyron Deputy

PURPOSE: Propose to Deny

PRESIDING: Evelyn Nicholson, President

BOARD STAFF: Pamela Zickafoose, Executive Director of Nursing, Sheryl Paquette, Administrative Specialist III, Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Patricia Davis-Oliva, DAG

DEPUTY ATTORNEY GENERAL FOR THE STATE:

RESPONDENT: Jennifer Cooper

COUNSEL FOR THE RESPONDENT:

WITNESSES FOR THE STATE: Dr. Pamela Zickafoose

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Eleanor J. Schwandt, Wilcox and Fetzer

TIME STARTED: 11:00 a.m.

The recorder took verbatim testimony. The Board members introduced themselves. Ms. Davis-Oliva described the reason for the hearing and confirmed Ms. Cooper was present for the hearing. Ms. Cooper gave a statement into the record. The Board members asked questions of Ms. Cooper. The Board went off the record at 11:17 a.m. for deliberations. The Board went back on the record at 11:22 a.m. Mr. Price made a motion, seconded by Ms. Bradley, to grant a waiver for Ms. Cooper to sit for her examination. By majority vote, the motion carried, with Ms. Littleton abstaining. The hearing concluded at 11:23 a.m.

HEARING MINUTES

HEARING – Andelasha Frink

The Delaware Board of Nursing held a hearing on September 12, 2012, at 11:30 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: Evelyn Nicholson, Bob Contino, Pam Tyranski, Bob Maddex, Harland Sanders, Madelyn Nellius, Mary Lomax, Delphos Price, David Salati, Kathy Bradley, and Tracy Littleton

RECUSED:

EXCUSED: Diane Halpern, Gwelliam Hines, and Lyron Deputy

PURPOSE: Propose to Deny

PRESIDING: Evelyn Nicholson, President

BOARD STAFF: Pamela Zickafoose, Executive Director of Nursing, Sheryl Paquette, Administrative Specialist III, Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Patricia Davis-Oliva, DAG

DEPUTY ATTORNEY GENERAL FOR THE STATE:

RESPONDENT: Andelasha Frink

COUNSEL FOR THE RESPONDENT:

WITNESSES FOR THE STATE: Dr. Pamela Zickafoose

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Eleanor J. Schwandt, Wilcox and Fetzer

TIME STARTED: 11:30 a.m.

The recorder took verbatim testimony. The Board members introduced themselves. Ms. Davis-Oliva described the reason for the hearing and confirmed Ms. Frink was present for the hearing. Ms. Frink gave a statement into the record. The Board members asked questions of Ms. Frink. The Board went off the record at 11:45 a.m. for deliberations. The Board went back on the record at 11:46 a.m. Mr. Sanders made a motion, seconded by Ms. Littleton, to grant a waiver for Ms. Frink to sit for her examination. By unanimous vote, the motion carried. The hearing concluded at 11:48 a.m.

HEARING MINUTES

HEARING – Shawn Walker

The Delaware Board of Nursing held a hearing on September 12, 2012, at 2:00 p.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: Evelyn Nicholson, Pam Tyranski, Bob Maddex, Harland Sanders, Madelyn Nellius, Mary Lomax, Delphos Price, David Salati, Kathy Bradley, and Tracy Littleton

RECUSED:

EXCUSED: Diane Halpern, Gwelliam Hines, Bob Contino, and Lyron Deputy

PURPOSE: Lift Suspension

PRESIDING: Evelyn Nicholson, President

BOARD STAFF: Pamela Zickafoose, Executive Director of Nursing, Sheryl Paquette, Administrative Specialist III, Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Patricia Davis-Oliva, DAG

DEPUTY ATTORNEY GENERAL FOR THE STATE:

RESPONDENT: Shawn Walker

COUNSEL FOR THE RESPONDENT:

WITNESSES FOR THE STATE: Dr. Pamela Zickafoose

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Eleanor J. Schwandt, Wilcox and Fetzer

TIME STARTED: 2:00 p.m.

The recorder took verbatim testimony. The Board members introduced themselves. Ms. Davis-Oliva described the reason for the hearing and confirmed Mr. Walker was present for the hearing. Mr. Walker gave a statement into the record. The Board members asked questions of Mr. Walker. The Board went off the record at 2:30 p.m. for deliberations. The Board went back on the record at 2:37 p.m. Ms. Bradley made a motion, seconded by Ms. Nellius, that the Board terminate Mr. Walker's suspension and place him on probation as outlined in the consent agreement. By unanimous vote, the motion carried. The hearing concluded at 2:40 p.m.

Executive Director Update September 12, 2012

The weather has finally gotten cooler and it is absolutely beautiful this week! This is not like August when Pam Tyranski and I attended the NCSBN Annual meeting in Dallas—108 degrees the day we walked to see where President Kennedy was shot! The Annual meeting was quite informative and we prepared a written summary for you. Back at the office, our new staff started working and they are all doing an excellent job!

I would like to take this opportunity to welcome everyone back from their summer vacations and I hope everyone is well rested and ready for a busy fall season. For me, summer has been busy with APN and AWSAM Committee meetings and related preparations. I have ordered another 500 Consensus Model brochures from the NCSBN for upcoming presentations at the hospitals. On September 19th I will be part of a panel discussion for the *Strengthening the Provider Workforce during Healthcare Reform* conference at the Duncan Center. It is free. Please register (via the email link I sent) if you are interested in attending.

The Data Integrity project is progressing very well and funding should be exhausted this fall. The July 10, 2012 report from NCSBN showed 98.8% of the errors were resolved. Disciplinary board orders/consent agreements are all attached in Nursys and the public can view these documents at www.nursys.com or on the Board's website at <http://dpr.delaware.gov/boards/nursing/index.shtml> under "Public Disciplinary Actions." In addition our staff have entered 8,050 archived records into the licensure database and all licensee records are scanned into filebound. This is an amazing accomplishment!

In June this year I was awarded the American Academy of Nurse Practitioners (AANP) "State Award for Excellence for Increasing Awareness and Acceptance of Nurse Practitioners." Although I feel this was not warranted, I am very appreciative and quite honored to be the 2012 Delaware recipient! On October 13th I plan to attend the AANP Region 2 and 3 Invitational Leadership Meeting at Penn's Landing in Philadelphia. I attended last year and found it to be very informative.

On October 17 & 18, 2012 I will be attending the Tri-Regulator Symposium in Washington, DC. This meeting is sponsored by the NCSBN, the Federation of State Medical Boards, and the National Association of Boards of Pharmacy. Numerous topics of interest are on the agenda including combating opioid prescription abuse, healthcare workforce needs, and supporting state-based regulation of healthcare personnel. Donna Shalala (committee chair for the IOM Future of Nursing report) is speaking on the competency of doctors, nurses and pharmacists. I am very excited to be invited to attend this meeting!

Finally, I would like to take the opportunity to thank each and every one of you who devotes your time and knowledge to the Board of Nursing. The meetings are long and you deal with very difficult subjects and situations. Having been a board member, I know the hours of preparation required for each meeting and I sincerely appreciate your willingness to be a part of and serve on the Board of Nursing. Because of you, we protect the citizens of Delaware!

NCSBN Annual Meeting Report 2012

From August 8-10, 2012, Executive Director Pamela Zickafoose and RN Member Pamela Tyranski attended the NCSBN Annual meeting as delegates to the General Assembly.

General Business topics addressed the election of Board Members. Myra Broadway was re-elected to a second term as President of the Organization. Several new At-Large members were elected, and in area IV, Sue Petula, Board Staff from Pennsylvania was elected to represent DE and the other states in that section.

Several Key Topics were addressed, including:

- Continued review and revision of Model Practice Act language was introduced, debated, amended and approved. An interesting area of discussion was whether Model Rules should include that the Board Executive be a Nurse. There were compelling arguments on each side of the issue. Those opposing took the position that the Executive needed to be a good administrator, and that a nursing background was unnecessary. The delegates voted overwhelmingly to retain the provision in the model rules to require the Executive to be a nurse.

Other model language change recommendations made by the Model Act and Rules Committee were on the whole adopted with minimal language suggestions and passed without debate.

- Nova Scotia, Saskatchewan, and New Zealand were approved as associate members of NCSBN.

- The NCLEX Committee and its test vendor Pearson Vue provided metrics regarding new questions developed and tested, the comparison of passing exam results between the control and general populations, and the new RN Test Plan was approved. This will go into effect in April 2013.

- Region IV Discussions included the shared challenges of: the growing interest in a national licensure model, Uniform Licensure Requirements, the APRN Consensus Model, HIPDB and Nursys public information and Model Act and Rules revisions.

- Criminal Background checks continue to be a challenge for members as the NCSBN Task Force presented. Several speakers addressed aspects of the rules and enforcing them. Some Member Boards have not yet started enforcing this as a license requirement. Speakers and attendees recounted similar struggles with how to handle applicants pre-testing, by endorsement and upon renewal who fail to disclose a criminal history, including those that would not preclude issuing a license. The member Boards vary in how they approach this. A compelling speaker who is a Psychologist presented her own personal story of narrowly avoiding a situation when a patient she was treating became threatening and was arrested. She shared that the patient who attacked her was an RN, and was still practicing because the State didn't require the background checks.

- Just Culture for Regulation presentation provided suggestions on an approach to stratifying nurses who commit disciplinable offenses. She suggested different approaches that included: Console those who make an error that was not purposeful, was an honest mistake or a result of system break down; Coach those who believed the risk taken that caused the disciplinable event was justified; and Punish those whose behavior is considered reckless. She suggested that the approaches to disciplinary actions should reflect the degree to which the action was purposeful, negligent, human error, or believed to be the correct action at the time. A Regulatory Decision Tree was distributed. See attached.

-The Executive Officer network session included discussions on succession planning, use of Nurse Alert in Nursys for significant investigations, a suggestion to allow Pearson Vue to send candidate reports directly to applicants, NLCA suggestions for updates on APRN Compact changes, substance use legislation and alternative to discipline programs in Idaho, Texas, and Kentucky. They also discussed the difficulty of obtaining military records to investigate complaints. Finally, EO's were reminded of the Operations Conference scheduled November 8th & 9th in Chicago.

Overall, the meeting was quite informative!

Respectfully Submitted,

Pam Tyranski & Pam Zickafoose