

**MINUTES OF THE MEETING
of the NEBRASKA
BOARD OF NURSING**

March 14, 2019

CALL TO ORDER

The meeting of the Nebraska Board of Nursing was called to order by Patricia Motl, Board President, at 8:32 a.m., March 14, 2019, at the Staybridge Room, Staybridge Suites Lincoln I-80, 2701 Fletcher Ave, Lincoln NE 68504. Copies of the agenda were mailed in advance to the Board members, emailed to interested parties, posted outside the Licensure Unit within the Nebraska State Office Building, and posted on the Department of Health & Human Services website. Motl announced the location of an available copy of the Open Meetings Act within the room.

ROLL CALL

The following board members were present to answer roll call:

- Janet Andrew, LPN, *Board Vice-President*
- Anne Dey, RN
- Tag Herbek, *Public Member*
- Louise LaFramboise, RN
- Patricia Motl, RN, *Board President*
- Kristin Ruiz, RN
- Linda Stones, RN
- Karen Weidner, RN, *Board Secretary*
- Katherine Werth, APRN

The following Board member arrived after roll call: Kristene Perrin, RN (*arrived at 8:41 a.m.*).

The following Board members were absent: Angela Cuffe, LPN, and Rita Thalken, *Public Member*.

The following staff members from the Department and the Attorney General's Office were also present during all or part of the meeting:

- Ann Oertwich, RN, *Executive Director*
- Sherri Joyner, *Health Licensing Coordinator*
- Kathy Hoebelheinrich, RN, *Nursing Practice Consultant*
- Jacci Reznicek, RN, *Nursing Education Consultant*
- Anna Harrison, *Compliance Monitor*
- Teresa Hampton, *DHHS Attorney* (arrived at 10:38 a.m.)
- Lisa Anderson, *Assistant Attorney General*
- Ami Huff, *Assistant Attorney General*
- Jessica Bowman, *Investigator*
- Sharon Fitts, *Investigator*
- Patricia Lemke, *Investigator*
- Sherri Lovelace, *Investigator*
- Mendy Mahar-Clark, *Investigator*

A quorum was present, and the meeting convened.

ADOPTION OF THE AGENDA

MOTION: Andrew made the motion, seconded by Ruiz, to adopt the agenda for the March 14, 2019, Board of Nursing meeting.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe, Perrin, and Thalken. Motion carried.

These minutes were approved by the Board
of Nursing on April 11, 2019.

APPROVAL OF THE MINUTES

Weidner, noting that one member's vote on an Educational Committee item was inaccurately recorded, requested that the February 14, 2019, minutes be removed from the consent agenda.

MOTION: Andrew made the motion, seconded by Ruiz, to approve the consent agenda.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe, Perrin, and Thalken. Motion carried.

MOTION: Andrew made the motion, seconded by Ruiz, to approve the February 14, 2019, Board minutes with corrections.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe, Perrin, and Thalken. Motion carried.

CLOSED SESSION

MOTION: Andrew made the motion, seconded by Ruiz, for the Board to go into closed session for the purpose of reviewing and discussing investigative reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe, Perrin, and Thalken. Motion carried.

8:40 a.m. Meeting went into closed session. Werth left the meeting.
 8:41 a.m. Perrin arrived to the meeting.
 8:48 a.m. Werth returned to the meeting.
 9:05 a.m. Werth left the meeting.
 9:10 a.m. Werth returned to the meeting. Weidner left the meeting.
 9:12 a.m. Weidner returned to the meeting.
 9:28 a.m. Andrew and Perrin left the meeting.
 9:30 a.m. Andrew returned to the meeting.
 9:31 a.m. Perrin returned to the meeting.
 9:33 a.m. Ruiz left the meeting.
 9:35 a.m. Ruiz returned to the meeting.
 9:40 a.m. Werth left the meeting.
 9:42 a.m. Werth returned to the meetings. Meeting went into recess.
 9:53 a.m. Meeting reconvened.
 10:34 a.m. Meeting returned to open session.

EDUCATION COMMITTEE

MOTION: The Education Committee moved that the Board of Nursing approve Metropolitan Community College ADN Course NURS 2210, Professional Role of the Nurse II.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

LICENSURE RECOMMENDATIONS (INITIAL APPLICATIONS)**NICOLE S. BEEKEN– RN APPLICANT**

MOTION: Andrew made the motion, seconded by Perrin, to recommend issuing a single-state, unrestricted RN license to Nicole Beeken.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

KARI S. HANSEN – RN APPLICANT

MOTION: Weidner made the motion, seconded by LaFramboise, to request a pre-licensure investigation in order to make a more informed decision on Kari Hansen’s application.

Voting Yes: Andrew, Herbek, Dey, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

WESLA S. DANIELSON– LPN APPLICANT

MOTION: Ruiz made the motion, seconded by Andrew, to recommend issuing a single-state, unrestricted LPN license to Wesla Danielson.

Voting Yes: Andrew, Dey, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

LOLITA D. ESPARZA – RN APPLICANT

MOTION: Weidner made the motion, seconded by LaFramboise, to recommend issuing an unrestricted RN license to Lolita Esparza.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

CLOSED SESSION

10:37 a.m. Hampton arrived to the meeting. Anderson, Huff, and Werth left the meeting.

MOTION: Andrew made the motion, seconded by Ruiz, for the Board to go into closed session for the purpose of reviewing and discussing investigative reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Perrin, Ruiz, Stones, and Weidner. Voting No: None. Abstain: None. Absent: Cuffe, Thalken, and Werth. Motion carried.

10:38 a.m. Meeting went into closed session.

10:48 a.m. Werth returned to the meeting.

11:07 a.m. Meeting returned to open session.

11:10 a.m. Hampton left the meeting.

LICENSURE RECOMMENDATIONS (REINSTATEMENT APPLICATIONS)**JULIA A. BENGIER – RN REINSTATEMENT FROM DISCIPLINE**

MOTION: LaFramboise made the motion, seconded by Dey, to recommend reinstating Julia Bengier’s RN license with the limitation that she cannot provide nursing services for home health care or staffing agencies. The recommendation for a license limitation is based on previous disciplinary action against the license.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Perrin, Ruiz, Stones, and Weidner. Voting No: None. Abstain: Werth. Absent: Cuffe and Thalken. Motion carried.

REGAN M. SIMS – LPN REINSTATEMENT FROM VOLUNTARY SURRENDER

MOTION: Perrin made the motion, seconded by Weidner, to recommend reinstating Regan Sims’ license on probation for two (2) years with the following conditions: abstain from alcohol; abstain from controlled

substances and other prescription drugs unless prescribed by the treating practitioner; verification from treating practitioner of all prescription medications; report all prescription medications taken; submit to random body fluid screens; advise Department of any professional counseling and submit reports; comply with treatment recommendations including recommendations for attendance at support group meetings and sponsor; active practice for 2080 hours; notify the Department within seven days of receipt of any criminal citations, filing of criminal complaints, or other contact with law enforcement; provide notice of disciplinary proceedings to employer and other states where licensed; provide quarterly employer reports; shall not provide nursing services for staffing agencies or in home health care; provide written notice to Department of any employment, address or phone changes within seven (7) days; comply with all reports, notices or other documentation from the Department; promptly respond to Department regarding compliance during probation; obey all state and federal laws, rules and regulations regarding practice of nursing and must report any violations of the above to Department within seven days; pay any costs associated with ensuring compliance, and appear at any meetings of the Board of Nursing when requested. The recommendation for probation is based upon a diagnosis of a substance use disorder and previous voluntary surrender of license. The recommendation for reinstatement is based on compliance with treatment recommendations, reported period of sobriety since 2015, and positive letters of reference from employer.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

SUSIE M. WHITEHALL (aka SUSIE M. WILSON) – RN PRIVILEGE TO PRACTICE REINSTATEMENT FROM DISCIPLINE

MOTION: Dey made the motion, seconded by Werth, to recommend reinstating Susie Wilson's privilege to practice nursing in Nebraska without restrictions based on her completion of continuing education and lack of any additional disciplinary actions.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

NATIONAL COUNCIL OF STATE BOARDS OF NURSING (NCSBN)

Oertwich reported that she along with Motl, Weidner, Werth, Perrin, and Hoebelheinrich will attend the NCSBN Midyear Meeting in late March. Oertwich also noted that information about NCSBN leadership positions had been distributed to Board members. Perrin said that she was interested in reapplying for a NCSBN Institute of Regulatory Excellence (IRE) fellowship. Oertwich said that the IRE program is being redesigned and the Perrin could learn more about the changes at the Midyear Meeting.

STAFF LICENSURE GUIDELINES

Oertwich referred to the grid the back of the Board's Guidelines for Discipline, which lists typical recommendations for certain categories of violations. Oertwich said that information in the grid was out-of-date, and she asked Board members not to use it until it could be updated.

Members reviewed the Staff Licensure Guidelines, which are included in the Board's Guidelines for Discipline, and which delineate when a licensure application needs to be reviewed by the Board. Weidner said that she would not recommend changes to the Staff Licensure Guidelines at this time. She said that she would like to review the standard recommendations for disciplinary actions after the NCSBN releases its disciplinary data in May. Members expressed interest in placing the Guidelines for Discipline on a future agenda after the release of the NCSBN data.

MOTION: Weidner made the motion, seconded by Perrin, to approve the Staff Licensure Guidelines without revisions, with the Board to review the remaining Guidelines for Discipline at a later date.

Voting Yes: Andrew, Dey, Herbek, LaFramboise, Motl, Ruiz, Perrin, Stones, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Cuffe and Thalken. Motion carried.

SUBSTANCE USE DISORDERS AND MONITORING

Oertwich reported that she plans to use information from the Board's Issues Forum on February 13, 2019, to develop guidelines for reviewing cases involving substance use disorders. She plans to show the guidelines to the Nebraska Board of Alcohol and Drug Counseling for their feedback. Oertwich said that Board members can let her know if they would like any salient points from the Issues Forum to be included in the guidelines.

Weidner said she thought it was a good practice to ask a person with a history of addiction to submit a sobriety plan. Weidner asked if templates for sobriety plans were available. Anderson said that the Nebraska Licensee Assistance Program might have samples or could provide advice on the topic. Anderson also recommended keeping an open mind on what counts as a relapse prevention activity. For some people, going to the gym every day, rather than participating in Alcoholics Anonymous, might be the activity that helps them stay sober. Stones said she appreciated Tina Chasek's comments at the Issues Forum on the components that should be included in a good substance use evaluation. Motl thought a list of these components should be provided to people when they are asked to undergo an evaluation. They could then provide the list to the evaluator. Weidner said she also appreciated Chasek's advice that evaluations should ideally be done within the previous six months.

LEGISLATION

Oertwich reported that LB205, which would create a Surgical Technologist Registry, is still in committee. She is uncertain about its chances for advancing. LB730, which would create one practice act for APRNs, is also still in committee. Oertwich reported that Sen. Sara Howard thinks Certified Nurse Midwives need to go through the Credentialing Review (407) Program in order to remove the current requirement that midwives have a collaborative agreement with a physician. Oertwich said that because the collaborative agreement is not a scope of practice issue, she is not sure if the Department would approve a request for a 407 Review. Oertwich reported that the EMS bill is moving forward. LB112, which would waive licensure fees for members of military families, persons who are low income, and applicants who are 25 or younger, has been placed on select file. Oertwich expressed concerns about the amount of time staff would need to spend obtaining and reviewing documents to determine if an applicant is eligible for the waiver.

11:50 a.m. Meeting went into recess.

12:25 p.m. Meeting reconvened.

COMMUNICATION

Issues Forum – Oertwich reported that the tentative topic for the April 10th Issues Forum is draft regulations for nursing.

Nurses Day at the Legislature – No reports were given.

Staff Updates – Oertwich reported on a number of staff changes. Dan Taylor, who currently works for the Licensure Unit's Long Term Care Facilities section has accepted the position for Nursing Support Supervisor. The position was formerly held by Connie Wagner. A new staff person has been hired for the Dialysis Patient Care Technician desk, which is a part-time position. Dannette Smith, has started as the new DHHS CEO. The new Deputy Director for Health Licensure & Health Data is Darrell Klein, formerly of DHHS Legal. He is replacing Susan Strohn, who is returning to the Hearing Office.

Nursing News – Oertwich reported that the next edition of *Nursing News* is at the publisher waiting for final edits.

DRAFT REGULATIONS

Oertwich explained that she and Reznicek prepared drafts of Chapter 101 and Chapter 97 in accordance with the current requirement that regulations should not repeat language already found in statute and that regulations should not include guidance.

172 NAC 10 – Oertwich distributed drafts of the proposed Chapter 10, which would set forth basic requirements for licensing, renewal, and reinstatement for all professions governed by the Uniform Credentialing Act. A hearing for Chapter 10 will be held on March 22nd.

Regulations Governing the Practice of Nursing (172 NAC 101) – Oertwich pointed out the following changes proposed by draft: 1) graduates of foreign nursing programs may be directed to take an NCLEX preparatory review course instead of the CGFNS Qualifying Examination; 2) certain requirements regarding NCLEX have been deleted from the draft because those requirements are established by Pearson VUE or NCSBN; 3) the self-designed refresher course option has been deleted; and 4) language regarding dual relationships has been added to the section on unprofessional conduct.

Weidner noted that the Board had previously worked on revising requirements for peer-reviewed continuing education. Oertwich said that the term “peer-reviewed” has been removed. Instead, all 20 hours of continuing education required for renewal must be from an “approved provider,” which is defined as a “recognized, accredited approval of a provider’s capacity to award contact hours for continuing education activities planned, implemented and evaluated by the provider.” Members expressed concerns that the definition for approved provider was not specific enough.

Regarding the language on dual relationships, Anderson advised that prohibiting sexual intimacy with a former client for two years following termination of therapy was appropriate for mental health professionals, but that she did not think this prohibition needed to be included in regulations for other professions. Weidner recommended adding language regarding use of photos and social media to the definition of “sexual intimacy.” LaFramboise said that the Board wants to avoid situations where they think action should be taken against a license but they lack the regulatory authority to do so. Anderson noted that being too specific can sometimes be limiting.

1:25 p.m. *Andrew left the meeting.*

Regulations Governing the Approval of Basic Nursing Programs in Nebraska (172 NAC 97) – LaFramboise asked about the possibility of emailing a draft of Chapter 97 to members of the Nebraska Assembly of Nursing Deans and Directors (NANDD), noting that NANDD’s next meeting is not scheduled until June. Oertwich noted that the draft includes new definitions for “Dedicated Education Unit,” “simulation,” and “waiver.” Louise recommended having the same experience requirements for both staff nurse instructors (used in Dedicated Education Units) and preceptors. Oertwich said she would make the requirement for both to be 12-months of experience. LaFramboise asked that language regarding “student services” be altered so that it could not be confused with a college or university’s Office for Student Services. Oertwich noted that a new section has been added to give programs a greater opportunity to implement innovative approaches. New requirements – based on NCSBN’s Model Rules – were added to the section for approval of new pre-licensure programs. Weidner asked if a site visit was required for approval. Oertwich said she would consider adding language that a site visit “may” be required. Under the section for continuing approval of education programs, LaFramboise suggested that the requirement for a site visit be changed from every 4 years to every 4-5 years so that the site visit could be aligned with the accreditation site visit.

CONCLUSION AND ADJOURNMENT

There being no further business, the meeting adjourned at 1:50 p.m.

Respectfully submitted,



Sherri Joyner
Health Licensing Coordinator