

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

**ISSUES FORUM  
April 10, 2019**

**CALL TO ORDER**

The meeting of the Nebraska Board of Nursing was called to order by Patricia Motl, Board President, at 1:15 p.m., April 10, 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*
- Louise LaFramboise, RN
- Patricia Motl, RN, *Board President*
- Kristin Ruiz, RN
- Linda Stones, RN
- Rita Thalken, *Public Member*
- Karen Weidner, RN, *Board Secretary*

The following Board member arrived after roll call: Kristene Perrin, RN (arrived at 2:52 p.m.).

The following Board members were absent: Angela Cuffe, LPN, Anne Dey, RN, Tag Herbek, *Public Member*, and Katherine Werth, APRN-NP.

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*

A quorum was present, and the meeting convened.

**ADOPTION OF THE AGENDA**

**MOTION:** Ruiz made the motion, seconded by Andrew, to adopt the agenda for the April 10, 2019, Board of Nursing Issues Forum meeting.

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

**DRAFT REGULATIONS**

Oertwich explained that she and other managers were required to review all licensing regulations in 2017 based on the Governor's Executive Order regarding regulations. Oertwich said they recently learned that they need to submit draft regulations by the summer of 2019 for all proposed changes identified during the 2017 review.

These minutes were approved by the Board  
of Nursing on May 9, 2019.

Oertwich reported that the draft for 172 NAC 10 will go to the Board of Health on April 29<sup>th</sup>. After it goes to the Board of Health, Oertwich said the draft will then go through a number of additional steps, including PRO [the Policy Research Office] and the Governor's Office.

Oertwich said that if the Board approves Chapters 97 and 101 today, the drafts will next go to Department Legal for review. Oertwich said that the attorneys reviewing the drafts will likely make additional changes.

#### Regulations Governing the Practice of Nursing (172 NAC 101)

LaFramboise asked about the definition of "continuing competency": "The ability of a nurse to apply interpersonal, technical, decision-making, and psychomotor skills at the level of knowledge expected for the nurse's current nursing practice role." She wondered if a more general definition could be used to better incorporate all the skills and components of nursing practice. Oertwich read the NCHEC (National Commission for Health Education) definition of "continuing competency," which the Board preferred.

Regarding the requirements for graduates of non-English speaking nursing programs, LaFramboise asked staff to double-check the minimum score requirements for the three versions of TOEFL (Test of English as a Foreign Language). She noted that the minimum passing score for the internet-based version of TOEFL is 84, but it is her understanding that the minimum passing scores for the subsections add up to more than 84. She also expressed concerns that persons can receive an overall passing score on TOEFL but still have a significant deficiency in one area.

LaFramboise also asked about the language stating that graduates of foreign nursing program "may be directed to take either a NCLEX preparatory review course or the CGFNS Qualifying Examination." Oertwich said that staff would direct applicants to either a preparatory course or the CGFNS exam, noting that the CGFNS Qualifying Examination was not appropriate for all foreign graduates. She said she would wordsmith the language.

In the section on licensure by endorsement, Oertwich said that the requirement that endorsement applicants submit transcripts has been eliminated.

In the section on temporary licenses, Reznicek said they replaced the word "permit" with "license." Oertwich said no other changes were made to the section compared to the previous draft.

In the section on continuing competency, LaFramboise questioned if the requirement for 500 practice hours in the previous five years was sufficient. She said she was not sure if a nurse who has not practiced during the five years after graduation was still competent, especially if the nurse goes to work in a nursing home environment where there is minimal supervision. Oertwich said that the Board sets the minimum standards, and that it is the employer's responsibility to ensure that the nurse is competent for the position.

Weidner asked about the portfolio option for meeting the continuing competency requirement, noting that several years ago the Board had discussed eliminating the option. Oertwich said that some people who use the portfolio option have done a beautiful job.

In the section on continuing competency audits, Weidner questioned if "biennially" was the right word to use given that audits need to be done annually because RNs and LPNs renew in alternate years. Oertwich said she would delete the word "biennially" so that the section reads the "Department may select in a random manner, a sample of the renewal applications for audit ...."

In the section on unprofessional conduct, Oertwich noted that she removed proposed language about dual relationships, which Lisa Anderson, Assistant Attorney General, had described at the Board's March meeting as more appropriate for mental health professionals. Instead, the current draft now defines unprofessional conduct to include "[c]rossing the professional boundaries of the nurse:patient relationship, to include patient's family members, to include the nurse's use of social media." Stones recommended adding wording that would include exploitation of patients and staff to the definition of unprofessional conduct. Oertwich said she would add language to cover abuses of power over staff.

**MOTION:** Thalken made the motion, seconded by Ruiz, to move forward with the approval of Chapter 101 and submit the current draft to DHHS Legal.

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

Stones asked if the Board will be able to review the drafts again after they are reviewed by DHHS Legal. Oertwich affirmed that the Board will be able to see any changes DHHS Legal makes. Oertwich said that after review by DHHS Legal, the draft will then go to a public hearing. Oertwich said that she did not think there any substantive changes in Chapter 101 that would create objections from the nursing community. Weidner said that the change in language regarding approved continuing education might raise some concerns, especially if nurses can no longer count basic CPR for continuing education. Oertwich said that information regarding which CPR courses can be counted for continuing education will be included in a guidance document.

#### Regulations Governing the Approval of Basic Nursing Programs in Nebraska (172 NAC 97)

Members discussed the definition of “clinical experience,” particularly the last sentence: “Clinical experiences may include, but are not limited to student observation, Dedicated Education Unit (DEU), simulation or experience supervised by adjunct faculty or preceptors.” LaFramboise asked if the definition should include experiences supervised by clinical staff instructors. Weidner noted that there was value in having full-time faculty supervise clinical experiences. Members agreed that it would be best to delete the sentence from the definition and place descriptions of clinical experiences in a guidance document.

LaFramboise asked if it would be possible to also include experiences that were not precepted but were also not strictly observational. She said that students are more likely to learn if they are asked to do something in addition to observing. She described experiences where students meet with a staff member for just one day, and the staff person reports back to the school but does not evaluate the student. Some clinical sites will not agree to do this because they think it is a violation of the regulations. Motl suggested using the term “staff nurse supported experience” to describe these situations. Oertwich said that she would try to come up with a definition and find a way so that they might be covered by the section in the regulations for innovative approaches.

2:52 p.m. *Perrin arrived to the meeting.*

3:00 p.m. *Andrew left the meeting.*

Members discussed the required standards for pre-licensure programs. LaFramboise and Weidner noted that the requirement that a program have “NCLEX pass rates at or above national average” might be difficult to enforce because the national average always changes. Weidner suggested using generic language for the NCLEX pass rates and placing more detailed information in a guidance document. LaFramboise, noting that the ACEN standard for NCLEX pass rates is 80%, suggested requiring an NCLEX pass rate of 80% per year or a three-year average consistent with the national three-year average.

Members discussed the requirement that programs have faculty/administration turnover rates below the state average. Weidner noted that it was unreasonable to compare faculty turnover rates at small programs to large programs, which can have more than a hundred faculty members. Members expressed approval for Oertwich’s suggestion that the wording be changed so that programs could not have “significant or continuous turnover of faculty/administration depending on program size and geographic area.”

Members also discussed required completion/attrition rates. LaFramboise noted that half of the programs in the state could be expected to be below average, so it was not reasonable to require programs to have completion rates above that average. Oertwich said she thought she could use the annual reports to find numbers for acceptable attrition rates. Reznicek noted that schools use different methods to calculate their attrition and completion rates for the annual reports. LaFramboise said it might be better to ask schools submit their raw data so that staff could calculate the rates. Members liked Weidner’s suggestion to change the requirement to read that programs shall not have “significant deficiencies in completion or attrition rates.”

LaFramboise suggested that Oertwich ask DHHS Legal, if the wording for program standards would allow the Board to take action against deficient programs. Weidner noted that by making national accreditation a requirement for nursing programs, the Board will have less need to take action against bad programs.

Oertwich said she would reword the requirement that program directors be “currently licensed in Nebraska” to clarify that directors might also hold a multistate license from another Compact state.

In the section for required qualifications for nursing faculty, Weidner did not think one year of clinical experience was sufficient. Members agreed to make two years of clinical experience a requirement for faculty at both PN and RN pre-licensure programs. Weidner pointed out the NCSBN’s Model Rules for education programs recommended that directors of RN programs hold a doctorate. She did not know if this recommendation should be included in Nebraska’s regulations. Oertwich said she was hesitant to add a doctorate requirement due to faculty shortages.

Oertwich said that most of the section on preceptors will be removed from the draft and placed in a guidance document. LaFramboise suggested adding a section on clinical staff instructors to the guidance document.

In the section of curriculum requirements, members discussed whether the fields specified for support coursework were the best choices or whether the specifications were even necessary. LaFramboise noted many people think that genetics is important, but it is not included in the list of required fields. Perrin noted that a sociology of health care course one of the most important courses she took in her nursing education. Oertwich said she would reword the section so that it is less prescriptive.

In the section on curriculum revisions, members agreed to reword the section to specify that Board approval was required for additions, deletions, and substitutions of required courses.

Members discussed the section for student services, which states, “Policies for students must be available in writing and consistently support a positive learning environment for the student.” Weidner and Perrin noted that the draft already states in the preceding section that all “policies relevant to applicants and student must be available in writing.” LaFramboise and Motl noted that a policy in itself cannot make an environment “positive,” and that policies are by necessity generally restrictive rather than “positive.” Oertwich said she would delete the section for student services.

Weidner suggested that the requirement that a program’s brochure or catalog to be current and accurate should also be applied to the program’s promotional materials and website.

In the section on approval of new pre-licensure programs, Weidner noted that the language requiring that “at least one qualified faculty member for each course must be employed six months prior to the beginning of a course” might be misinterpreted to mean that it was sufficient to hire one faculty member to teach multiple courses.

LaFramboise asked if a draft of Chapter 97 will be sent to the Nebraska Assembly of Nursing Deans and Directors. Oertwich said that the next step to send the draft to DHHS Legal, and that she was not sure when the public will be able to view a copy.

**MOTION:** Andrew made the motion, seconded by Thalken, to move forward with the approval of Chapter 97 and submit the current draft to DHHS Legal.

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

## **CONCLUSION AND ADJOURNMENT**

There being no further business, the meeting adjourned at 4:10 p.m.

Respectfully submitted,



Sherri Joyner  
Health Licensing Coordinator