

**MINUTES OF THE MEETING**  
**of the NEBRASKA**  
**BOARD OF NURSING**  
**September 13, 2018**

**CALL TO ORDER**

The meeting of the Nebraska Board of Nursing was called to order by Dawn Straub, Board President, at 8:34 a.m., August 9, 2018, 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. Straub 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
- Maxine Guy, LPN
- Louise LaFramboise, RN
- Kristene Perrin, RN
- Dawn Straub, RN, *Board President*
- LaFonda Tanner, *Public Member*
- Karen Weidner, RN, *Board Secretary*
- Katherine Werth, APRN

The following Board members were absent: Patricia Motl, RN, Kristin Ruiz, RN, 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 11:57 a.m.)
- Lisa Anderson, *Assistant Attorney General*
- Ami Huff, *Assistant Attorney General*
- Mindy Lester, *Assistant Attorney General*
- Susan Aerni, *Investigator*
- Jessica Bowman, *Investigator*
- Sharon Fitts, *Investigator*
- Patricia Lemke, *Investigator*
- Sherri Lovelace, *Investigator*
- Mendy Mahar-Clark, *Investigator*
- Dennis Scott, *Program Manager, Investigations*

A quorum was present, and the meeting convened.

**ADOPTION OF THE AGENDA**

**MOTION:** Guy made the motion, seconded by Andrew, to adopt the agenda for the September 13, 2018, Board of Nursing meeting.

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

These minutes were approved by the Board  
of Nursing on October 11, 2018.

**APPROVAL OF THE MINUTES**

**MOTION:** Guy made the motion, seconded by Andrew, to approve the minutes of the August 9, 2018, Board of Nursing meeting with corrections.

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

**CLOSED SESSION**

**MOTION:** Andrew made the motion, seconded by Guy, 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, Guy, LaFramboise, Perrin, Straub, Tanner, Weidner, and Werth. Voting No: None. Abstain: None. Absent: Motl, Ruiz, and Thalken. Motion carried.

8:40 a.m. Meeting went into closed session.  
 8:45 a.m. Perrin left the meeting.  
 8:55 a.m. Perrin returned to the meeting.  
 10:00 a.m. Perrin left the meeting.  
 10:10 a.m. Perrin returned to the meeting.  
 10:53 a.m. Perrin left the meeting.  
 10:58 a.m. Perrin returned to the meeting.  
 10:58 a.m. Staub left the meeting.  
 11:00 a.m. Straub returned to the meeting  
 11:06 a.m. Perrin left the meeting.  
 11:09 a.m. Perrin returned to the meeting.  
 11:13 a.m. Weidner left the meeting.  
 11:16 a.m. Weidner returned to the meeting.  
 11:17 a.m. Werth left the meeting.  
 11:19 a.m. Werth returned to the meeting.  
 11:25 a.m. Meeting went into recess.  
 11:32 a.m. Meeting reconvened.  
 11:57 a.m. Hampton entered the meeting. Lester left the meeting. Meeting went into recess.  
 12:40 p.m. Meeting reconvened. Anderson and Huff left the meeting.  
 1:11 p.m. Meeting returned to open session. Anderson returned to the meeting.

**REGULATIONS GOVERNING THE PROVISION OF NURSING CARE**

Oertwich announced that because closed session lasted longer than expected, the agenda items for licensure recommendations and reports from the NCSBN Annual Conference were being moved to after the Disciplinary Actions presentation.

Oertwich distributed copies of the new draft of 172 NAC 99. She said the draft was in the queue for review by Department Legal. She asked members to either take the draft home to peruse or to leave in their board folders for discussion at a future Board meeting.

**HEALTH CARE PROFESSIONALS DISCIPLINARY ACTIONS**

Matt Gelvin, Program Manager for the Department's Research, Policy, and Quality Improvement Section, Juan-Paulo Ramirez, statistician consultant, Anna Harrison, Department Compliance Monitor, and Michelle Hruska, from the Nebraska Licensee Assistance Program, presented on the outcomes of a study of discipline data.

Ramirez explained that the study involved Nebraska disciplinary data for the five years between 2012 and 2017. Of the 1339 individuals who had licenses on probation during the period, 443 involved nursing licenses and 269 (the next highest number) involved cosmetology licenses. Ramirez pointed out that nurses

are 55% of the health care workforce. Of nurses on probation, 12% live in rural areas of the state while 88% are in urban areas, which is proportional to the distribution of the nursing workforce.

The study also looked at the people whose probationary conditions included random body fluid screens to find the average length of time to first relapse. Date of relapse was determined by the date of a positive body fluid screen. Between 2012 and 2017, eleven of the 416 LPNs on probation and fourteen of the 392 RNs on probation experienced a relapse. The average length of time from probation start date to date of first relapse for LPNs was 1 year, 2 months, and 3 day. For RNs, it was 1 year, 28 days.

The study included data collected by Reznicek by surveying boards of nursing in other states regarding probation terms. Some states, such as Missouri and Kansas, reported that they determine probation lengths on a case-by-case basis. Other states use fixed terms. Oregon, for example, imposes a one-year probation regardless of the severity of a substance use disorder. Georgia and Massachusetts automatically impose a five-year term. The average probation length for cases involving substance use disorders among the states surveyed was 4.2 years.

Michelle Hruska presented on the services provided by the Nebraska Licensee Assistance Program (NE LAP). Licensed health care professionals in Nebraska can refer themselves to NE LAP for help with alcohol or other substance use issues. If a licensee is diagnosed with a moderate or severe substance use disorder, NE LAP generally requires that the licensee complete an Intensive Outpatient Treatment program followed by at least one year of monitoring.

She noted that when relapses do occur, it is often when the licensees become complacent about their recovery. She also finds that relapse can be more common among people who don't take responsibility for their actions and insist they did nothing wrong, people who continue to associate with users, people who don't use recovery support groups or other resources, and people who do not engage in pro-social activities. Hruska said some licensees find it helpful not to have access to controlled substances during their first year of recovery, but she has also seen nurses with severe substance use disorders who never diverted despite having access to controlled substances.

Anderson said she thought it was important to distinguish between the work of NE LAP, which provides assistance to licensees who voluntarily seek help, and the work of Anna Harrison, the Compliance Monitor, whose goal is to ensure public safety.

## **LICENSURE RECOMMENDATIONS**

### **SUSAN K. STANDISH – RN REINSTATEMENT (NonDisciplinary)**

**MOTION:** Weidner made the motion, seconded by Perrin, to recommend reinstating Susan Standish's RN License on probation for five years with the following terms and 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; practice under direct RN supervision for one (1) year, followed by practicing under indirect RN supervision for one (1) year; have no access to controlled substances in the course of nursing employment for one (1) year, followed by access to controlled substances under direct supervision for one (1) year; active practice for 3120 hours; notify the Department within seven days of receipt of any criminal citations, filing of criminal complaints, or other contact with law enforcement; cannot practice nursing outside of an RN refresher course until refresher course is satisfactorily completed; 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 diagnoses of substance use disorders and disciplinary action against license in another jurisdiction.

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

#### **JULIE C. CULLY – RN REINSTATEMENT (NonDisciplinary)**

**MOTION:** Werth made the motion, seconded by Dey, to deny the reinstatement of Julie Cully's RN license based on misdemeanor convictions, felony conviction, and substance use disorder diagnosis.

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

#### **DENA R. SIEDENBURG – RN REINSTATEMENT (NonDisciplinary)**

**MOTION:** Dey made the motion, seconded by Werth, to recommend reinstating Dena Siedenburger's RN license on probation for three years with the following terms and 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 3120 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 misdemeanor convictions, felony conviction, and diagnoses of substance use disorders.

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

#### **KATE C. BONHAM – LPN APPLICATION**

**MOTION:** Andrew made the motion, seconded by Guy, to recommend issuing Kate Bonham an unrestricted LPN license.

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

#### **MICHAIAH L. ANDERSON – RN APPLICATION**

**MOTION:** Andrew made the motion, seconded by Guy, to recommend issuing Michaiiah Anderson an unrestricted RN license

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

**TETYANA I. LEDUC – LPN APPLICATION**

**MOTION:** Weidner made the motion, seconded by Werth, to table Tetyana LeDuc's application in order to obtain additional information.

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

**MICHAEL J. WARNER – RN REINSTATEMENT FROM DISCIPLINE**

**MOTION:** Andrew made the motion, seconded by Guy, to recommend issuing Michael Warner a temporary license for the purpose of completing a Board-approved refresher course within 18 months, and following successful completion of the refresher course, reinstating his RN license without restrictions. The recommendation for reinstatement is based on applicant's reported period of sobriety from April 7, 2011, and positive letters of reference from co-workers

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

**MANDY J. JOHNSON – RN REINSTATEMENT FROM DISCIPLINE**

**MOTION:** Dey made the motion, seconded by Weidner, to recommend issuing Mandy Johnson a temporary license on probation for the purpose of completing a Board-approved refresher course within 18 months, and following successful completion of the refresher course, reinstating her RN license on probation for five years with the following terms and 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; practice under direct RN supervision for one (1) year, followed by practicing under indirect RN supervision for one (1) year; have no access to controlled substances in the course of nursing employment for one (1) year, followed by access to controlled substances under direct supervision for one (1) year; active practice for 3120 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 misdemeanor convictions and diagnosis of a substance use disorder. The recommendation for reinstatement is based on completion of treatment, compliance with treatment recommendations, active involvement in the substance abuse/addiction recovery process, reported period of sobriety from March 15, 2017, documentation of maintaining a sponsor, and positive letters of reference.

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

**REPORTS FROM NCSBN ANNUAL CONFERENCE**

Straub reported that she attended the reception for board presidents. She noted that she was only one of two presidents who came from nursing practice environments; the other presidents had academic backgrounds, and many had served in their roles for five years or longer. One of the issues discussed by the presidents was the perception that practice environments are not welcoming to new graduates,

including some practices that are not willing to hire new graduates. Straub said that NCSBN is looking into providing more opportunities for people who are not on nursing boards to participate in NCSBN activities. She also said NCSBN currently has ongoing studies on: 1) disciplinary case management (how long it takes boards to take final action after a complaint is filed), 2) the effectiveness of the campaign to raise awareness for the Enhanced Nurse Licensure Compact, and 3) outcomes for alternative to discipline programs.

Oertwich noted that the conference focused on international regulations, and that international licensing seems to be the wave of the future.

LaFramboise noted that one of the vendors at the conference offered an essay exam that assesses the taker's understanding of ethics, boundaries, and other issues. She wondered if such a tool might be more useful than the current coursework used for remediation in discipline cases.

Hoebelheinrich reported that a resolution was passed to create a work group to examine APRN practice issues. She thinks the work group will be helpful, noting that she probably receives at least one call a week from an APRN who seems surprised when she explains the concept of specialty practice.

Reznicek reported that she met with other Education Consultants. One issue they discussed was the use of virtual reality simulators in nursing education programs and the complications it might create for board surveyors when they make site visits to education programs. Education programs are also grappling with the legalization of marijuana and how to deal with students who test positive for marijuana during clinicals. Many schools who have faced this situation defer to the facility policy. Reznicek also reported that the expected implementation date for next-generation NCLEX is 2023.

### **CENTER FOR NURSING UPDATES**

Oertwich reported that the Center for Nursing Foundation is working on a specialty license plate for nursing, although they have not yet decided whether to use the DMV's application process for specialty plates or to seek Legislative approval.

### **ISSUES FORUM**

Oertwich reported that the Issues Forum scheduled for October 10<sup>th</sup> will be devoted to nursing workforce shortage issues. One item that will be covered is feedback from the Center for Nursing's Regional Dialogues tour. Oertwich will invite members of the Nebraska Center for Nursing Board to attend so that both boards can discuss how the feedback might shape their strategic plans and how they might work collaboratively to address workforce shortages.

### **COMMUNICATION**

Legislative Updates – Oertwich said that she did not have any new information.

Staff Updates – Oertwich reported that the vacancy for a Health Licensing Specialist has been filled and that the new staff person will start on September 24<sup>th</sup>. Oertwich also reported that the Department's CEO, Courtney Phillips, will leave mid-October as she has accepted a position in Texas.

Nursing News – Oertwich reported that the next edition of the newsletter is will be mailed out soon.

### **CONCLUSION AND ADJOURNMENT**

There being no further business, the meeting adjourned at 2:45 p.m.

Respectfully submitted,



Sherri Joyner  
Health Licensing Coordinator