

MINUTES OF THE MEETING
of the NEBRASKA
BOARD OF NURSING
November 8, 2018

CALL TO ORDER

The meeting of the Nebraska Board of Nursing was called to order by Dawn Straub, Board President, at 8:33 a.m., November 8, 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. Andrew 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
- Louise LaFramboise, RN
- Patricia Motl, RN
- Kristene Perrin, RN
- Kristen Ruiz, RN
- Dawn Straub, RN
- Rita Thalken, *Public Member*
- Karen Weidner, RN, *Board Secretary*
- Katherine Werth, APRN

The following Board members were absent: Maxine Guy, LPN, and LaFonda Tanner, *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*
- Matt Gelvin, *Program Manager, DHHS Research, Policy, and Quality Improvement*
- Teresa Hampton, *DHHS Attorney* (arrived at 11:10 a.m.)
- Lisa Anderson, *Assistant Attorney General*
- Ami Huff, *Assistant Attorney General*
- Susan Aerni, *Investigator*
- Jessica Bowman, *Investigator*
- Sharon Fitts, *Investigator*
- Patricia Lemke, *Investigator*
- Sherri Lovelace, *Investigator*
- Dennis Scott, *Program Manager, Investigations*

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 November 8 2018, Board of Nursing meeting.

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

These minutes were approved by the Board
of Nursing on December 13, 2018.

APPROVAL OF THE MINUTES

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

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

CLOSED SESSION

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

8:36 a.m. Meeting went into closed session.

9:12 a.m. Perrin left the meeting.

9:23 a.m. Perrin returned to the meeting.

10:38 a.m. Werth left the meeting.

10:45 a.m. Werth returned to the meeting.

10:58 a.m. Meeting returned to open session

NCLEX

Reznicek reviewed data on NCLEX pass rates for Nebraska graduates. During the third quarter of 2018, 28 states or jurisdictions had NCLEX-PN pass rates higher than Nebraska, and 32 states or jurisdictions had higher NCLEX-RN pass rates.

Perrin reported that she is serving on a NCSBN panel that provides feedback on the appropriateness of NCLEX questions. She attended a meeting several weeks ago in Chicago and reported that the panel was a diverse group that included practicing nurses. Weidner and LaFramboise reported that they have completed NCLEX item reviews. Karen reviewed RN and LPN exams; LaFramboise reviewed two RN exams. LaFramboise was impressed with the rigor of the exam.

LaFramboise also described UNMC School of Nursing's proposed program for internationally-educated nurses. The program, which is still in the approval process, would introduce student to the culture of nursing in the United States and prepare them for NCLEX. They are considering pursuing a collaborative program with other Big 10 schools. She also noted challenges some internationally-educated nurses face in obtaining CGFNS certifications.

11:10 a.m. Hampton arrived to the meeting.

CLOSED SESSION

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

11:18 a.m. Meeting went into closed session. Anderson and Huff left the meeting.

11:50 a.m. Meeting returned to open session

LICENSURE RECOMMENDATIONS**STEPHANIE S. OLSON – LPN APPLICATION**

MOTION: Weidner made the motion, seconded by Motl, to uphold the Board's recommendation from the October 11, 2018, Board meeting after considering new information from Stephanie Olson.

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

SARAH R. GREENWOOD – LPN APPLICATION

MOTION: Dey made the motion, seconded by Werth, to recommend issuing Sarah Greenwood an LPN license on probation with the terms and conditions consistent with the probation of her Nebraska Massage and to include the following conditions: active practice for 1040 hours; 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 criminal convictions and disciplinary action against her Massage Therapist license.

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

ERIKA C. NEWILL – LPN APPLICATION

MOTION: Dey made the motion, seconded by Werth, to recommend issuing Erika Newill an LPN 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; 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 a diagnosis of a substance use disorder, misdemeanor convictions, and a felony conviction.

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

REBECCA L. WILLITS – RN APPLICATION

MOTION: Andrew made the motion, seconded by Ruiz, to recommend issuing Rebecca Willits an RN license on probation with the same conditions currently in place on her LPN license with the probation to continue until June 23, 2021.

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

ELIZABETH M. LANG – RN APPLICATION

MOTION: Motl made the motion, seconded by Andrew, to recommend denying Elizabeth Lang's application for an RN license based on disciplinary action against license in another jurisdiction related to a substance use disorder and active addiction.

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

CHRISTIN L. BENSON – RN REINSTATEMENT FROM DISCIPLINE

MOTION: Motl made the motion, seconded by Andrew to recommend reinstating Christin Benson's RN license on probation for five years with the following terms and conditions: abstain from alcohol; 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 diagnosis of a substance use disorder, misdemeanor convictions, and a felony conviction. The recommendation for reinstatement is based on completion of inpatient treatment, compliance with treatment recommendations, active involvement in the substance abuse/addiction recovery process, reported period of sobriety from May 23, 2018, positive letters of reference, and release from court-ordered post-release supervision..]

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

MCKENNA MURPHY – RN REINSTATEMENT FROM DISCIPLINE

MOTION: Weidner made the motion, seconded by Dey, to request a pre-reinstatement investigation in order to make a more informed decision.

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

KALLIE BREWER (GERTSCH) – RN REINSTATEMENT FROM DISCIPLINE

MOTION: Ruiz made the motion, seconded by Andrew, to recommended reinstating Kallie Brewer’s RN license without restrictions based on compliance with treatment recommendations, positive letters of reference from employer, and updated evaluation with no further treatment recommendations.

Voting Yes: Andrew, Dey, Motl, and Ruiz. Voting No: Perrin, Straub, Thalken, Weidner, and Werth. Abstain: LaFramboise. Absent: Guy and Tanner. Motion failed.

MOTION: Perrin made the motion, seconded by Thalken, to deny Kallie Brewer’s request for early termination of probation based on substance use disorder diagnosis, no due cause for early termination of probation, and insufficient evidence presented to substantiate a change in circumstance.

Voting Yes: Perrin, Straub, Thalken, Weidner, and Werth. Voting No: Andrew, Dey, Motl, and Ruiz. Abstain: LaFramboise. Absent: Guy and Tanner. Motion carried.

12:03 p.m. Meeting went into recess.

12:43 p.m. Meeting reconvened.

NCSBN GUIDELINES FOR MEDICAL MARIJUANA

Members reviewed the National Council of State Boards of Nursing’s National Guidelines for Medical Marijuana. The report lists Nebraska as one of four states that have no cannabis statutes. Anderson noted that this is technically incorrect as Nebraska does have a law allowing for the use of a cannabidiol in a UNMC epilepsy study. Reznicek noted that the report emphasizes issues related to the care of patients who use medical marijuana and the education of nursing students regarding medical marijuana. She thought it would be useful to share the report with the Nebraska Assembly of Nursing Deans and Directors, but she did not think it was pertinent to disciplinary questions that might arise when a nurse uses marijuana. Motl noted that she would like the Board to be updated if any legislation is proposed or passed regarding cannabis.

HEALTH CARE PROFESSIONALS DISCIPLINARY ACTIONS

Members discussed the presentation on disciplinary actions that was presented at the Board’s September 13, 2018, meeting. Harrison noted that during the 2012-2017 time period, licensees who relapsed while on probation experienced the relapse on average 253 days after monitoring began. In cases where a second relapse occurred, it happened on average 158 days after the first relapse.

Anderson noted that other boards besides the Board of Nursing recommend probation terms of five years in cases of moderate and/or severe substance use disorder diagnoses. Straub said that the Board wants to know if the five-year term is effective; she thought further study was warranted. Anderson said she would like to see input from experts in the field, such as addictionologists and alternative program specialists.

Harrison said that at one time three-year probation terms were standard in cases of alcohol or drug dependence. Boards changed to five-year terms after a presentation on the topic was made at all-board meeting attended by representatives of all the professional boards. Harrison reported that she, Gelvin, and Juan Ramirez had talked with Todd Stull, a specialist in addiction who also serves on the Nebraska Board of Medicine. According to Harrison, Stull reported that none of the professional boards in Iowa impose probation terms longer than three years.

Motl said she thought it was important for all boards to be consistent with disciplinary recommendations. A nurse might find it unfair to have to be on probation for five years when a pharmacist with a similar history only has to do a two-year term.

Anderson, noting that the five-year probation standard originated at an all-board meeting, suggested that the Department might consider holding another all-board meeting with a panel of experts in the field. Weidner suggested forming a sub-group to help find experts for the meeting. Anderson suggested that the

Department try to find a contact at SAMHSA. She also recommended contacting Stull and Jerome Barry, the director of the Independence Center.

MOTION: Motl made the motion, seconded by Andrew, to request that the Licensure Unit arrange for an all-board meeting to consider the current evidence for disciplinary terms related to substance abuse disorders.

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

IMPLEMENTATION OF LB299

Oertwich reported that the Department has created a sample application and draft policy to implement the section of LB299 that allows people to apply to a licensing board to determine if their convictions would prohibit them from obtaining a license. Hampton said that based on the way “board” is used in the act, she envisions a process where the Board would make a recommendation on these types of applications and that Department would make the decision, although she noted that she has not yet discussed this issue with staff.

STRATEGIC PLAN

Members reviewed the Board’s strategic plan, which Reznicek had formatted to facilitate updates. Oertwich suggested that the plan be reviewed at Board meetings quarterly.

COMMUNICATION

Election of Officers –Oertwich announced that the December agenda will include election of 2019 board officers. Board members can submit their nominations by emailing Joyner. Elections for Committee Chairs will take place during committee meetings.

172 NAC 99 –Hampton reported that her review of the draft Regulations Governing the Provision of Nursing Care but that has been interrupted by higher priority items.

RN Renewals – Staff reported that approximately 28,000 RN licenses were renewed during the 2018 renewal period. Approximately 1,000 licenses were placed on inactive status and approximately 1,000 RN licenses expired.

Staff Updates – Oertwich reported that new staff member Amy Keller is doing well and will soon be the primary staff person responsible for processing APRN applications and reinstatement applications.

Nursing News – Oertwich reported that staff are working on an article on school nurses for the next edition of *Nursing News*. Oertwich reported that the article on delegation in the previous issue prompted a number of calls and emails, some of which indicated that there is still a misperception that physicians can delegate nursing tasks to medical assistants. Oertwich reported that the article on nursing/EMS partnerships received a lot of positive feedback. Oertwich also noted that the 407 Review for creating new license types for community paramedics and critical care paramedics will hold its first hearing on December 12th. The Nebraska Nurses Association is expected to oppose the proposal.

CONCLUSION AND ADJOURNMENT

There being no further business, the meeting adjourned at 1:45 p.m.

Respectfully submitted,



Sherri Joyner
Health Licensing Coordinator