MINUTES OF THE MEETING
of the
NEBRASKA BOARD OF NURSING
September 8, 2016

CALL TO ORDER

The meeting of the Nebraska Board of Nursing was called to order by Maxine Guy, Board President, at 8:31 a.m., September 8, 2016, at the Gold's Building, Room 534, 1033 O Street, Lincoln NE 68508. 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. Guy 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
- Anne Dey, RN
- Maxine Guy, LPN, *Board President*
- Louise LaFramboise, RN
- Anthony LaRiche, *Public Member, Secretary*
- Kristene Perrin, RN
- Dawn Straub, RN
- Rita Thalken, *Public Member*
- Karen Weidner, RN

The following Board member was absent: Kelley Hasenauer, APRN.

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

- Ann Oertwich, RN, *Executive Director*
- Sherri Joyner, *Health Licensing Coordinator*
- Jacci Reznicek, RN, *Nursing Education Consultant*
- Anna Harrison, *Compliance Monitor*
- Matt Gelvin, *Program Manager* (arrived at 10:10 a.m.)
- C. J. Roberts, *Attorney*
- Lisa Anderson, *Assistant Attorney General*
- Russ Fosler, *Investigations Unit Administrator*
- Peggy Persell, *Investigations Unit Program Manager*
- Susan Aerni, *Investigator*
- Jessica Bowman, *Investigator*
- Sharon Fitts, *Investigator*
- Pat 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 Weidner, to adopt the revised agenda for the September 8, 2016, Board of Nursing meeting.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

These minutes were approved by the Board of Nursing on October 13, 2016.

APPROVAL OF THE MINUTES

MOTION: Andrew made the motion, seconded by Straub, to approve the minutes of the August 11, 2016, Board of Nursing meeting with corrections.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

NCLEX 2nd QUARTER REPORTS

Guy noted that the second quarter NCLEX scores for Nebraska nursing programs were above the national pass rate. Weidner said that the Education Committee would inquire whether the pass rates for foreign-educated nurses included people who tested in the United States or just foreign-educated nurses who tested abroad.

APPROVAL OF 2014-15 NURSING PROGRAM ANNUAL REPORTS

MOTION: The Education Committee made the motion that the Board of Nursing approve the 2014-2015 Annual School Report Summaries for the following programs: Western Nebraska Community College (PN); College of St. Mary (PN); Metropolitan Community College (PN); Kaplan University-Omaha (PN); Central Community College (PN); Mid-Plains Community College (PN); Northeast Community College (PN); Southeast Community College (PN); Central Community College (ADN); Metropolitan Community College (ADN); Southeast Community College (ADN); Northeast Community College (ADN); UNMC (BSN); Union College (BSN); Bryan College of Health Sciences (BSN); Clarkson College (BSN); Creighton University (BSN); Midland University (BSN); and Nebraska Methodist College (BSN).

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

MOTION: The Education Committee made the motion that the Board of Nursing approve the 2014-2015 Annual School Report Summaries for the following programs but notes concerns regarding the programs' NCLEX pass rates: ITT/Breckinridge (ADN); Western Nebraska Community College (ADN); Kaplan University-Lincoln (ADN); Mid-Plains Community College (ADN); and College of St. Mary (ADN/BSN);

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

COMMUNICATION

Staff Updates

Oertwich reported that staff are dealing with a large volume of phone calls regarding RN renewals. The online renewal website is not always available, which is an issue staff are trying to resolve.

Andrew and Straub both reported that nurses are often confused about what counts as acceptable continuing education for renewal purposes. Oertwich said that staff and the Education Committee could review documents submitted for continuing education audits in order to better assess areas of concern. After the Education Committee clarifies what counts as acceptable continuing education, Oertwich recommended publishing the information in *Nursing News*

Process Improvement Plan

Oertwich reported that all staff will be required to take training to become "white belt certified" in Lean Six Sigma processes. Managers will be required to take "yellow belt" training.

Nursing News

Oertwich reported that they are considering focusing on nursing workforce issues in the next edition of *Nursing News*. Dye said that the newsletter can be useful in educating nurses about the role of the Board of Nursing. Dye suggested including more coverage of the Nurse Practice Act and the Board's Advisory Opinions.

National Council of State Boards of Nursing (NCSBN)

Guy, Oertwich, and Perrin reported on the NCSBN Annual Conference, which they attended in August.

Perrin attended the session on prescription drug abuse. She said the statistics regarding opioid dependency in the Unites States are staggering. Nebraska seems to be less affected by the opioid crisis than many other states. Perrin also appreciated hearing about steps other boards are taking to make disciplinary processes more efficient. She also noted that several Canadian regional boards are now NCSBN members and sent representatives to the conference.

Oertwich reported that the NCSBN 2017-2019 Strategic Plan and the 2017 NCLEX-PN Test Plan were approved. She also reported that the topic of international licensure garnered a lot of discussion at the conference.

Guy reported on the session for Board of Nursing presidents. Attendees discussed differences among states concerning who could and who could not perform intravenous therapy, and how this was complicated by the Nurse Licensure Compact. They also discussed how different states handled licensure applicants with Minor in Possession (MIP) convictions. Many of the attendees thought that if an applicant had only one MIP conviction, then board review of the application should not be required.

Nurse Licensure Compact (NLC) Updates

Weidner asked if the status of the Enhanced Nurse Licensure Compact was addressed at the NCSBN Annual Conference. Oertwich said many people seemed confident that at least 26 states would pass Enhanced Compact legislation by the end of 2017, and if that happened the Enhanced Compact would go into effect.

Oertwich reported that she had a call scheduled with Jim Puente, NLC Director, to make arrangements for Nurse Licensure Compact training for staff and Board members in October. Although Board members will not be expected to attend all eight hours of the training, Oertwich said she thought it was important for members to know the "talking points," especially given the importance of adoption of the Enhanced Nurse Licensure Compact.

Legislative Updates

The Licensure Unit had submitted three nursing-related legislative proposals for possible Department sponsorship. Oertwich reported that adoption of the Enhanced Nurse Licensure Compact is near the top of the list for the Public Health Division's list of priority legislation. At this point, however, there is no guarantee that the Department will sponsor the proposal. Oertwich asked Board members to think of potential sponsors in case the proposal is not picked up by the Department.

CENTER FOR NURSING FOUNDATION UPDATE

LaRiche reported that he has not been contacted by the Foundation since July. He also reported that he is no longer able to serve on the Foundation Board because he will be relocating to the East Coast in the next several months or next spring. LaRiche noted that due to vacancies on the Center of Nursing's Board, the Center had not been able to give the Foundation the guidance it needed in recent years, although the situation appears to be changing. Straub suggested that increased collaboration between the Center for Nursing and the Nebraska Action Coalition (NAC) might be beneficial. Oertwich asked Straub if she would consider serving as the Board of Nursing representative on the Foundation's Board. Straub said she would consider it.

CENTER FOR NURSING UPDATE

Oertwich reported that the Center for Nursing is working on the development of a supply-and-demand model for the nursing workforce in Nebraska. Dr. Craig Moore, who has developed supply-and-demand models used in Louisiana and other states, will attend the Center's board meeting on October 21st. Oertwich reported that the Center is also working on increasing its collaboration with NAC, and it is developing a video that will focus on nursing in rural healthcare settings.

CREDENTIALING REVIEW UPDATES

LPN/LPN-C

Weidner and Guy, along with Crystal Higgins from Southeast Community College's Practical Nursing Program, presented at the first meeting of the LPN/LPN-C Technical Committee on September 7th. The committee was established to review the Board's proposal to include intravenous therapy in the LPN scope of practice. Weidner and Higgins did not have much opportunity to present given the unexpectedly large number of questions from committee members. Weidner reported that committee members were not opposed to new LPN graduates being able to perform intravenous duties, but that they were concerned about LPNs who have not received the appropriate training. Another concern raised was that if LPNs who do not currently have a LPN-C license were required to take coursework in intravenous therapy, some of these LPNs might decide to retire from the profession. Long-term care and assisted living facilities were concerned that this would create a nursing shortage in these settings.

Oertwich reported that they held a meeting on September 5th for stakeholders on the LPN/LPN-C proposal. Attendees included representatives from the Nebraska Health Care Association, the Nebraska Hospital Association, the Nebraska Medical Association, and representatives from the hospice and assisted living fields.

(See below for additional discussion of the LPN/LPN-C Credentialing Review process.)

Dialysis Technologists

Terry Dalton, of Dialysis Clinics, Inc., reported that the Dialysis Technologists Technical Committee had voted to recommend licensure of dialysis technologists. The next step for the dialysis group is to seek a recommendation from the Board of Health at its September 19th meeting. Dalton said that the group originally requested registration, rather than licensure, of dialysis techs, but they amended their proposal due to concerns with the ability of nurses to delegate complex tasks to unlicensed persons.

Weidner asked who would be providing oversight of dialysis techs if they become a licensed group. Dalton said they would prefer that nurses continue to provide oversight. Weidner asked if that meant nurses could

direct techs but not delegate to them. Dalton answered in the affirmative. LaRiche asked if the Board of Nursing can oversee another type of license. Roberts and Oertwich thought it might require legislation.

9:55 a.m. *Meeting went into recess.*
10:10 a.m. *Meeting reconvened*

Gelvin reported that if the Board of Health recommends licensing dialysis techs, the proposal would then need the approval of the new Chief Medical Officer, who is scheduled to start on November 1st.

LPN/LPN-C (continued)

Gelvin reported that the main issue raised by the LPN/LPN-C Technical Committee was what to do with the approximately 5,800 LPNs who have not been trained in intravenous therapy, particularly those LPNs who might not be willing to take the required training because their jobs do not include intravenous duties. He advised the Board to present the Committee with a plan that covers these 5,800 LPNs. Gelvin also said he will see if time can be scheduled for Weidner and Higgins to present at the next Technical Committee meeting on October 5th.

CLOSURE OF ITT/BRECKINRIDGE

Oertwich provided an update on the closure of ITT. Reznicek said she has received many phone calls from people who attended the ITT nursing program in Omaha who were concerned about how the closure will affect them. LaFramboise said it was unlikely that an accredited school of nursing would accept transfer credits from a non-accredited nursing program. Weidner noted that schools must fulfil regulatory obligations when they close a nursing program, and she proposed sending a letter to ITT asking for information on how ITT will meet these obligations. Roberts said it would be appropriate for the Department to send a letter to ITT requesting this information. Oertwich said she would ensure that the letter be sent, and that the Department would take what steps it can to ensure the school fulfills its obligations to current and former students

PUBLICATION OF LICENSURE ACTIONS IN *NURSING NEWS*

Members and staff discussed the publication of disciplinary actions and other licensure actions in the Board's quarterly newsletter. Joyner noted that most actions are listed in Nursing News using statutory language to identify the basis of the discipline. The exception is discipline related to substance abuse, dependence, or addiction, in which case specific diagnoses are listed in *Nursing News*. Anderson noted that there has been lawsuits filed in other states due to incorrect disciplinary information being published. LaFramboise and Straub both remarked that in fulfilling their job duties, they have found the discipline actions published in *Nursing News* to be a useful resource. Members noted that the information included in the licensure actions section is public information.

MOTION: LaFramboise made the motion, seconded by Thalken, that the Board of Nursing continue to publish licensure actions in Nursing News and that statutory language be used rather than listing specific diagnostic information.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

STRATEGIC PLANNING

Members reviewed the Board's draft Strategic Plan. Members requested that the wording for Strategic Goal #3 be reworded so that it reads, "Revise process for issuing Advisory Opinions by the Board." They

also requested that Strategic Action 3.1 be reworded so that it reads, "Develop process for the Practice Committee to use in Advisory Opinion development.

Oertwich asked if the Board wanted to review and update the plan monthly. Members expressed a preference for quarterly reviews. Oertwich said she would bring the Strategic Plan back to the Board in December for review.

MOTION: Straub made the motion, seconded by Andrew, that the Board of Nursing adopt the Nebraska Board of Nursing Strategic Plan 2016 with revisions.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

CLOSED SESSION

MOTION: Andrew made the motion, seconded by Weidner, 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, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

11:03 a.m.	*Meeting went into Closed Session. Anderson left the meeting.*
11:24 a.m.	*Straub left the meeting.*
11:33 a.m.	*Straub returned to the meeting.*
11:50 a.m.	*Andrew left the meeting.*
11:53 a.m.	*Roberts left the meeting. Anderson returned to the meeting.*
11:54 a.m.	*Andrew returned to the meeting.*
1:40 p.m.	*Weidner left the meeting.*
1:45 p.m.	*Weidner returned to the meeting.*
3:03 p.m.	*Perrin left the meeting.*
3:03 p.m.	*Perrin returned to the meeting.*
3:27 p.m.	*Meeting returned to Open Session.*

LICENSURE RECOMMENDATIONS

TAMI H. BERTRAND – LPN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

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

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

RAYMOND R. CHASE – RN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

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

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

CEANNA L. SCHROEDER – RN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: Andrew made the motion, seconded by Weidner, to deny Ceanna Schroeder's application for early termination of probation based on: the probationary period has not been completed; there is no due cause for early termination of probation; and there is insufficient evidence presented to substantiate a change in circumstances.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

YVETTE Q. RUSH – RN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: LaRiche made the motion, seconded by Dey, to recommend reinstating an unrestricted license to Yvette Rush based on: her compliance with the terms of her license limitation for one year; a positive employer reference; and a positive reference from her family therapist.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

DEBRA J. SYPAL – LPN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: Weidner made the motion, seconded by Andrew, to deny the reinstatement of Debra Sypal's LPN license based on insufficient evidence presented to substantiate a change in circumstances.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

JOLENE M. FREEL –RN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: LaRiche made the motion, seconded by Dey, to recommend reinstating Jolene Freel'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 two (2) years, 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 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. This motion is based upon previous licensure disciplinary action which includes a diagnosis of opioid dependence; completion of intensive outpatient treatment; compliance with treatment recommendations; and positive letters of reference from treating practitioners.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Thalken, and Weidner. **Voting No:** None. **Abstain:** Straub. **Absent:** Hasenauer. **Motion carried.**

HOPE R. NORSTADT –RN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: Dey made the motion, seconded by LaRiche, to recommend reinstating Hope Norstadt'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; 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 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. This motion is based upon previous licensure disciplinary action which includes diagnoses of methamphetamine use disorder and cannabis use disorder; completion of intensive outpatient treatment; reported period of sobriety from June 13, 2013, and positive letters of reference.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

ZOLANA M. COSTELLO – LPN REINSTATEMENT (NON-DISCIPLINARY)

MOTION: LaRiche made the motion, seconded by LaFramboise, to recommend denying the reinstatement of Zolana Costello's LPN license based on: misdemeanor convictions rationally related to the profession; a diagnosis of methamphetamine use disorder, moderate; a diagnosis of alcohol use disorder, severe; and failure to cooperate with the Department investigator.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, and Thalken. **Voting No:** None. **Abstain:** Weidner. **Absent:** Hasenauer. **Motion carried.**

ANJANA GHALE – RN APPLICATION

MOTION: Thalken made the motion, seconded by LaFramboise, to recommend issuing Anjana Ghale an unrestricted RN license upon receipt of a clear criminal background check.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

ERIN M. DUBRAY – LPN APPLICATION

MOTION: Andrew made the motion, seconded by Straub, to recommend issuing Erin DuBray an unrestricted LPN license.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** Perrin. **Absent:** Hasenauer. **Motion carried.**

CASH G. BRATETIC – RN APPLICATION

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

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

JENNA E. GLASS – RN APPLICATION

MOTION: Perrin made the motion, seconded by Straub, to recommend issuing Jenna Glass an unrestricted RN license.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

RACHEL A. BRINCKS – RN APPLICATION

MOTION: Andrew made the motion, seconded by Straub, to recommend issuing Rachel Brincks an unrestricted RN license.

Voting Yes: Andrew, Dey, Guy, LaFramboise, LaRiche, Perrin, Straub, Thalken, and Weidner. **Voting No:** None. **Abstain:** None. **Absent:** Hasenauer. **Motion carried.**

CONCLUSION AND ADJOURNMENT

There being no further business, the meeting adjourned at 3:27 p.m.

Respectfully submitted,

Sherri Joyner
Health Licensing Coordinator