

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

December 10, 2015

CALL TO ORDER

The meeting of the Nebraska Board of Nursing was called to order by Maxine Guy, Board President, at 8:33 a.m., December 10, 2015, at the Gold's Building, Room 534, 1033 O St, Lincoln, Nebraska. 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
- Jane Carmody, RN
- Maxine Guy, LPN, *Board President*
- Kelley Hasenauer, APRN-NP, *Vice-President*
- Wendy Kallhoff, RN
- 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 not present during roll call: Kristene Perrin, RN (arrived at 9:15 a.m.)

The following board members were absent: Jane Carmody, RN, and Kathleen Pepin, RN

The following staff members from the Department and the Attorney's General Office were also present:

- Becky Wisell, *Administrator, Licensure Unit*
- Laura Weber, *Interim Practice Consultant, Investigator*
- Sherri Joyner, *Health Licensing Coordinator*
- Jennifer Van Eperen, *Health Licensing Specialist*
- Anna Harrison, RN, *Compliance Monitor* (arrived at 10:15 a.m.)
- Matt Gelvin, *Program Manager* (arrived at 10:15 a.m.)
- Teresa Hampton, *Attorney* (arrived at 10:15 a.m.)
- Christopher "C.J." Roberts, *Attorney* (arrived at 10:15 a.m.)
- Lisa Anderson, *Assistant Attorney General*
- Peggy Persell, *Investigations Unit Program Manager* (arrived at 9:00 a.m.)
- Jessica Bowman, *Investigator* (arrived at 1:05 p.m.)
- Kristi Chapman, *Investigator* (arrived at 1:07 p.m.)
- Pat Lemke, *Investigator* (arrived at 1:07 p.m.)

A quorum was present, and the meeting convened.

ADOPTION OF THE AGENDA

MOTION: Straub made the motion, seconded by Andrew, to approve the revised agenda of the Nebraska State Board of Nursing for December 10, 2015.

These minutes were approved by the
Board of Nursing on January 21, 2016.

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

APPROVAL OF THE CONSENT AGENDA

MOTION: Hasenauer made the motion, seconded by Kallhoff, to approve the consent agenda with changes as discussed.

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

REVISION OF MOTION

MOTION: In the matter of Emily Aragon, RN-Applicant, LaRiche moved, seconded by Weidner, to amend the motion made by LaRiche, seconded by Weidner, and approved by the Board at its November 19, 2015 meeting by inserting the words: “actively practice as a nurse for 1,040 hours during the one year probationary term;” immediately after the words: “with the following terms and conditions:.” This amendment is necessary to correct an oversight in the original motion.

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

EDUCATION COMMITTEE

1) The Education Committee made the motion for the Board of Nursing to approve Central Community College’s PN and ADN site visit report and give continual approval for another four years.

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

2) The Education Committee made the motion for the Board of Nursing to approve the Union College BSN site visit report and give continual approval for another four years.

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

3) The Education Committee made the motion for the Board of Nursing to approve the UNMC site visit report and give continual approval for another four years.

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

4) The Education Committee made the motion for the Board of Nursing to accept the Kaplan University (Lincoln Campus) site visit report with the recommendations that 1) a system be put in place to ensure that students have input into program decisions, 2) the program continues efforts to meet national standards for NCLEX pass rates, and 3) the program continues efforts to stem frequent nursing department administrative changes and/or faculty turnover.



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

5) The Education Committee made the motion for the Board of Nursing to approve the Southeast Community College ADN Program's Level 1, Level 2, and Graduate Student Learning Outcomes and Program Concepts, as revised September 10, 2015.

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

6) The Education Committee made the motion for the Board of Nursing to approve the Nebraska Wesleyan BSN Program's course NURS 2700, Behavioral Health Nursing.

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

7) The Education Committee made the motion for the Board of Nursing to approve the Clarkson College LPN to BSN program's courses NS 358, Transitional Medical Surgical Nursing for the Adult Client, and NS 359, Transitional Medical Surgical Nursing for the Adult Client LPN to BSN: Clinical, with suggested changes.

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

8) The Education Committee made the motion for the Board of Nursing to approve Western Nebraska Community College's revisions to the syllabi for: ADNR 1122, Principles of Pharmacology I, with recommended changes in Student Learning Outcomes; ADNR 1134, Pathophysiology II, with recommended changes; ADNR 1141, Adult Health and Illness I, with recommended changes; and ADNR 1151, Adult Health and Illness II, with recommended changes.

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

9) The Education Committee made the motion for the Board of Nursing to approve ITT/Breckinridge's request to reduce the required quarter credit hours in its ADN program from 109 quarter hours to 104 quarter hours.

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

2016 NCLEX-RN Basic Test Plan

The Board reviewed the 2016 NCLEX-RN Test Plan. Weidner noted that a category for Culture and Spirituality was added, but there were no significant changes in percentage distributions. LaFramboise noted that the difficulty will increase because the test covers what a nurse should know in the first year of practice, rather than the first six months. Members noted that such changes often lead to a dip in scores.

Incorporating LPN-Cs into Nurse Practice Act



Wisell reported that she has not yet received an answer regarding whether a 407 review process would be required to strike-out the current LPN-C statutes and incorporate LPN-C duties into the Nurse Practice Act. She expected to have an answer by the January 2016 Board meeting.

COMMUNICATION

Staff Updates

Wisell reported that two interviews had been conducted for the Board of Nursing Executive Director position. Because she would prefer that the new Executive Director play a role in hiring for the Education Consultant and Practice Consultant positions, interviews are not currently being held for those two openings. Wisell reported that Weber, who is currently serving as Interim Practice Consultant, is doing an excellent job.

9:15 a.m. *Perrin arrived at the meeting.*

Wisell reported on the Nursing Section's participation in the Department's Process Improvement Program. After interviewing and observing licensing staff, the program made recommendations for making the licensing process more efficient

Nursing News

Joyner reported that the Department's Public Information Office was still reviewing proofs for the Winter 2016 edition of *Nursing News*. She asked about including articles pertinent to the Nebraska Center for Nursing in the Board's newsletter, and members agreed that it would be okay to do so.

Legislative Updates

Wisell provided an update on proposed legislation regarding cease and desist orders. If the proposed legislation becomes effective, the Department, rather than the Board, would decide if a cease and desist order is to be issued, but that the Department would first obtain a Board recommendation. Anderson explained the proposed change is largely in response to the *North Carolina Board of Dentistry v. FTC* case, which upheld the issuance of a citation to the North Carolina board for hindering free trade by issuing cease and desist orders to establishments that performed teeth-whitening services. Straub asked who would make the decision to issue a cease and desist order under the proposed legislation. Wisell said she would try to obtain a definitive answer.

CENTER FOR NURSING FUNDING REQUEST

Wisell introduced Liane Connelly, the Chair of the Nebraska Center for Nursing Board. A budget report was provided to members listing the allocations made to the Center and remaining balances for the previous five fiscal years. As of October 30, 2015, the balance for the Center was \$23,846.72.

Connelly provided an overview of the Center's primary goals and strategic plan, and a list of projects the Center wishes to undertake in order to fulfill their mission. The projects and estimated costs for the remainder of the fiscal year are: consultant's salary (\$28,000); website expenses (\$10,500); table at Nurses Day at the Legislature (\$250); development of a new supply-and-demand data model (\$5,000); development of a video about rural health nursing (\$10,000); and attendance at the National Forum of State Nursing Workforce Centers' annual conference. Connelly requested an allocation of \$39,900, which when combined with the Center's current balance of approximately \$23,850, would cover the total projected cost of \$63,750.

Wisell said she thought the allocation could be made without jeopardizing Board of Nursing activities, such as attending conferences of the National Council of State Boards of Nursing



MOTION: LaRiche made the motion, seconded by LaFramboise, for the Board to allot \$40,000 to the Nebraska Center for Nursing for Fiscal Year 2016 that ends June 30, 2016.

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

CENTER FOR NURSING FOUNDATION UPDATE

LaRiche reported that he had no updates on the Foundation.

ASSOCIATION OF RADIOLOGIC & IMAGING NURSING

Members reviewed the letter that had been submitted by the Association for Radiologic & Imaging Nursing (ARIN), asking for information on how Nebraska captures the current area of nursing employment for licensees. Because the Licensure Unit does not currently obtain information from nurses about their areas of specialty, it does not have data available to share with ARIN. Weber will communicate this information to ARIN, but will also let them know that relevant data might be available in the future.

10:03 a.m. Meeting went into recess.

10:15 a.m. Meeting reconvened.

ELECTION OF BOARD OFFICERS

The nominees for each office were Maxine Guy for Board President, Kelley Hasenauer for Vice-President, and Tony LaRiche for Secretary. Guy announced that these officers were elected by acclamation.

GUIDELINES FOR DISCIPLINE

Members reviewed a draft of the Board's Guidelines for Board Recommendations. Changes were made to language pertaining to alcohol and substance abuse/dependency. LaRiche led a discussion of proposed changes to the "grid" that is appended to the Guidelines. Hampton noted that the Guidelines and grid are public records.

MOTION: Kallhoff made the motion, seconded by Thalken, for the Board to accept the Guidelines for Board Recommendations Regarding Disposition of Violations of the Nurse Practice Act and/or Uniform Credentialing Act as revised December 10, 2015.

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

MOTION: Kallhoff made the motion, seconded by Thalken, for the Board to approve the recommended changes to the Board of Nursing General Guidelines for Discipline Grid, revision date December 10, 2015.

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

Final copies of the Guidelines and Grid will be sent to Board members in their packets for the January 2016 meeting.

UPDATES TO REPORT ON 2013-2015 STRATEGIC PLAN



Members reviewed a draft report on the Board's 2013-2015 Strategic Plan. They recommended several minor changes, but were otherwise satisfied with the report. LaFramboise suggested including a summary of the report in the Board's *Nursing News*.

REVIEW OF DRAFT NURSING REGULATIONS

Cindy Kadavy and Pam Truscott from the Nebraska Health Care Association (NHCA) presented NHCA's comments on proposed revisions to the Regulations Governing the Practice of Nursing (172 NAC 101). The NHCA addressed the proposed requirement that all twenty hours of continuing education be peer-reviewed, expressing concerns that this change would add to the cost of providing continuing education and reduce the continuing education options available to nurses. Additional suggestions presented by NHCA included: not using the definition of "peer reviewed and approved" provided in the draft because the definition does not seem to correspond with the intended meaning; omitting the definition of "substance use disorder" because the term is not found in the draft regulations; and requiring that the criminal background check be received from the State Patrol before issuing a temporary license.

Board members discussed continuing education requirements. Hasenauer and others stated that they did want to require that all twenty hours of continuing education be peer-reviewed. Guy noted the importance of communicating with nurses about any changes in continuing education requirements, especially if in-service trainings could no longer be used. Members also wanted to ensure that nurses who return to school could use nursing-related academic courses to fulfill their continuing education requirements. Before making further recommendations about the definition of peer-reviewed continuing education, members requested that additional information be obtained regarding continuing education requirements in other Nurse Licensure Compact states. Members also discussed how specific the descriptions of acceptable continuing education topics needed to be. Hampton said that if broad categories are used in the regulations, one could obtain expert feedback in a hearing situation to decide if a particular course was acceptable.

Members discussed whether the draft regulations pertaining to graduates of foreign nursing programs are in compliance with the Nurse Practice Act, particularly in regard to required Commission on Graduates of Foreign Nursing Schools (CGFNS) documentation. Hampton said that she could make an argument in favor of regulations that require foreign-educated LPN applicants to submit CGFNS documentation if it is for the purpose of verifying that the applicant graduated from an acceptable program. Members asked that additional information about CGFNS services be obtained.

12:38 a.m. *Meeting went into recess.*

1:03 p.m. *Meeting reconvened.*

Members discussed requirements for issuance of temporary licenses. Hampton said that based on language in the Uniform Credentialing Act and the Nurse Practice Act, she thought an argument could be made for allowing issuance of a temporary license prior to the receipt by the Department of the criminal history record information from the Nebraska State Patrol, but that the Board should decide if they wanted to allow this in the regulations. In cases where applicants have submitted fingerprints but the results of the background check are still pending, the Board said they were comfortable issuing temporary licenses to endorsement candidates and temporary licenses for completing refresher courses if all other application requirements had been met. The Board was not comfortable issuing temporary licenses to new graduates.

No decisions were made as to whether or not a proposed section consisting of the Nurse Licensure Compact's model rules should be included in the draft regulations.

2017 NCLEX-PN TEST PLAN

Members and staff discussed whether the draft copy of the 2017 NCLEX-PN Test Plan should be reviewed in open or closed session. Hampton expressed concerns about whether a closed session discussion could be justified under the Open Meetings Act. Members noted that the document is marked confidential, and



that if the plan was discussed in open session, the Board might not be given access to draft copies of NCLEX plans in the future, which might be detrimental to the public interest.

MOTION: Straub made the motion, seconded by Hasenauer, for the Board to discuss the proposed revisions to the 2017 NCLEX-PN Test Plan in closed session in order to protect the public interest.

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

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

CLOSED SESSION

1:37 p.m. Meeting went into closed session.
 1:54 p.m. Anderson left the meeting.
 2:00 p.m. Hasenauer left the meeting
 2:07 p.m. Hasenauer returned to the meeting
 2:13 p.m. Hampton and Roberts left the meeting.
 2:14 p.m. Anderson returned to the meeting.
 3:24 p.m. Weidner left the meeting.
 3:25 p.m. LaRiche left the meeting.
 3:30 p.m. Weidner returned to the meeting.
 3:38 p.m. LaRiche returned to the meeting.
 3:52 p.m. The meeting returned to Open Session.

LICENSURE RECOMMENDATIONS

MELINDA K. HILL – RN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: Weidner made the motion, seconded by Perrin, to deny reinstatement of Hill's RN license based on recent misdemeanor convictions related to controlled substance, previous convictions, and history of discipline.

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

KINLEY J. QUEEN – LPN REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

MOTION: LaRiche made the motion, seconded by Kallhoff, to reinstate Queen's 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 of 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 year, followed by indirect RN supervision for one year; have no access to controlled substances in course of nursing employment for one year, followed by access to controlled substances under direct supervision for one year; active practice for 3120 hours; report any arrests, receipt of citations issued by law enforcement or criminal complaints filed against her to the Department within seven days; and the usual terms and conditions. The motion is based on previous licensure disciplinary action, which includes a diagnosis of sedative, hypnotic, anxiolytic dependence; completion of inpatient, intensive outpatient, and outpatient treatment; compliance with treatment recommendations; active involvement in the substance abuse/addiction recovery process; reported period of sobriety of over three years; reported attendance at support group meetings and maintaining a sponsor; and a positive letter of reference from her community support coordinator.

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

LISA M. BRYANT – RN APPLICATION

MOTION: Andrew made the motion, seconded by Kallhoff, to issue Bryant an unrestricted RN license.

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

MALLORY E. SMOLINSKI – LPN APPLICATION

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

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

EMERICK M. HUBER – RN REINSTATEMENT NON-DISCIPLINARY – AFTER EXPIRATION

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

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

CONCLUSION AND ADJOURNMENT

Hasenauer reported that she emailed Matt Baumann of the Nebraska Kidney Coalition a letter encouraging the utilization of LPN-Cs at dialysis centers, but that she had not yet received a response.

There being no further business, the meeting adjourned at 4:03 p.m.

Respectfully submitted,



Sherri Joyner
 Health Licensing Coordinator

