

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

**August 11, 2022**

**CALL TO ORDER**

The meeting of the Nebraska Board of Nursing was called to order by Patricia Motl, Board President, at 8:33 a.m., August 11, 2022, at the Best Western Plus Conference Room, 2201 Wildcat Circle, Lincoln NE 68521. Copies of the agenda were emailed to the Board members on July 29, 2022, emailed to interested parties on July 29, 2022, posted outside the Licensure Unit within the Nebraska State Office Building on July 29, 2022, and posted on the Department of Health & Human Services website on July 29, 2022. Motl announced that a copy of the Open Meetings Act was available in the room.

Board members, staff, and the public could attend the meeting virtually via video conference or phone as authorized by Neb. Rev. Statue 84-1411(7) and Executive Orders Nos. 21-12 and 22-02.

**ROLL CALL**

The following board members were present and answered roll:

- Theresa Delahoyde, RN
- Tag Herbek, *Public Member*
- Tom Hoover, RN
- Lisa Kollasch, APRN-P
- Angela Kula, LPN
- Kandis Lefler, LPN, *Board Secretary*
- Patricia Motl, RN *Board President*
- Kristin Ruiz, RN
- Brenda Smidt, RN
- Linda Stones, RN, *Board Vice-President*
- Rita Thalken, *Public Member*

The following Board member joined the meeting after roll call and attended virtually: Sonét Smutny, RN

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

- Ann Oertwich, RN, *Executive Director*
- Kathy Hoebelheinrich, APRN-NP, *Nursing Practice Consultant*
- Ginger Rogers, APRN-NP, *Nursing Practice Consultant*
- Jacci Reznicek, RN, *Nursing Education Consultant*
- Sherri Joyner, *Health Licensing Coordinator*
- Anna Harrison, *Compliance Monitor*
- Teresa Hampton, *DHHS Legal* (attended virtually)
- Lisa Anderson, *Assistant Attorney General*
- T.J. O'Neill, *Assistant Attorney General*
- Brittany Bigham, *Investigator*
- Jessica Bowman, *Investigator*
- Andrea Cramer-Price, *Investigator*
- Patricia Lemke, *Investigator*
- Mendy Mahar-Clark, *Investigator*

A quorum was present, and the meeting convened.

These minutes were approved by the Board  
of Nursing on September 8, 2022.

**ADOPTION OF THE AGENDA**

**MOTION:** Stones made the motion, seconded by Kula, to adopt the agenda for the August 11, 2022, Board of Nursing meeting.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

**APPROVAL OF THE MINUTES**

**MOTION:** Stones made the motion, seconded by Delahoyde, to approve the consent agenda.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

**CLOSED SESSION**

**MOTION:** Delahoyde 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: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

Motl announced that the Board was in 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.

8:36 a.m. Meeting went into closed session  
 9:11 a.m. Smutny joined the meeting.  
 9:53 a.m. Motl left the meeting.  
 10:01 a.m. Motl returned to the meeting.  
 10:17 a.m. Stones left the meeting.  
 10:23 a.m. Stones returned to the meeting.  
 10:33 a.m. Meeting went into recess.  
 10:50 a.m. Meeting reconvened.  
 11:00 a.m. Smutny left the meeting.  
 11:12 a.m. Meeting returned to open session.

**LICENSURE RECOMMENDATIONS****KEVIN T. HACKETT – RN APPLICANT**

**MOTION:** Kollasch made the motion, seconded by Delahoyde, to table Kevin Hackett's application in order to obtain additional information.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

**ROBERT S. YBARRA – RN APPLICANT**

**MOTION:** Delahoyde made the motion, seconded by Kula, to recommend denying Robert Ybarra's application for an RN license based on disciplinary action against license in another jurisdiction.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

**MICHAEL K. ODEDELE – LPN REINSTATEMENT (NONDISCIPLINARY)**

**MOTION:** Delahoyde made the motion, seconded by Kollasch, to recommend denying Michael Odedele's application for reinstatement of his LPN license based on misrepresentation of material facts on a licensure application.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

**JOHN B. FORTNER – RN REINSTATEMENT FROM DISCIPLINE**

**MOTION:** Smidt made the motion, seconded by Hoover, to recommend reinstating an unrestricted license to John Fortner based on applicant's compliance with treatment recommendations, active involvement in the substance abuse/addiction recovery process, reported period of sobriety from March 24, 2017, and positive letters of reference.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

**EDUCATION COMMITTEE**

**MOTION:** Education Committee moved that the Board approve granting preceptor waivers to nursing programs that would allow a preceptor to monitor two students who are in their final clinical course prior to graduation if the students' nursing program has been approved for the waiver.

Delahoyde explained this waiver was proposed because of the difficulty schools face in finding enough preceptors with the required qualifications. Delahoyde also explained that schools will need to submit an application if they wish to be approved for the waiver.

Voting Yes: Delahoyde, Herbek, Hoover, Kollasch, Kula, Lefler, Motl, Ruiz, Smidt, Stones, and Thalken. Voting No: None. Abstain: None. Absent: Smutny. Motion carried.

Reznicek reported that 101 Nebraska graduates sat for their initial NCLEX-PN exam during the second quarter of 2022. Of these 101 PN candidates, 87.13% passed. The national NCLEX-PN pass rate for first-time testers during this period was 78.28%. For graduates of foreign programs, the NCLEX-PN pass rate was 47.47%

Of the 606 graduates of Nebraska RN programs who sat for their initial NCLEX-RN exam during the second quarter, 87.46% passed. The national NLCEX-RN pass rate for first-time testers during this period was 82.19%. For graduates of foreign programs, the NCLEX-RN pass rate was 43.79%

Oertwich reported that Mid Plains Community College's NCLEX pass rates have been below the national average for three years, which puts them at risk of losing their ACEN accreditation. The program has worked closely with her and Reznicek to improve their scores. The school will implement additional entrance requirements for nursing students this fall. Oertwich noted that Mid Plains has also been pressured by local employers to loosen their entrance requirements. Delahoyde said that it can take several years for schools to see improvements in NCLEX scores after they implement changes.

Smidt noted the decline in NCLEX pass rates in recent years. She wondered if the implementation of Next Generation NCLEX might lead to further increases. Delahoyde noted that schools are not able to obtain software that allows them to administer questions in a format similar to what will be found on Next Generation NCLEX. In the long run, Delahoyde said, the change is probably for the best because

the critical thinking component of Next Generation NCLEX is more similar to what students will experience when they enter the nursing workforce.

### **NCSBN ANNUAL MEETING**

Oertwich reported that the Nurse Licensure Compact will hold its major annual meeting on Tuesday, August 16<sup>th</sup>, and that the National Council of State Boards of Nursing (NCSBN) Annual Meeting will then occur August 17<sup>th</sup> through August 19<sup>th</sup>. Oertwich and Stones will serve as representatives for the Nebraska APRN Board at the Delegate Assembly, and Motel and Smutny will represent the Nebraska Board of Nursing.

### **CENTER FOR NURSING**

Oertwich reported that as part of the HRSA grant for nurse resiliency, sessions on mental health first aid have been implemented at critical access hospitals in Pender, West Point, and other locations.

Oertwich also reported that focus groups with frontline nurses have been conducted, and that the company that conducted the interviews has submitted their analysis of the data. The study found that although participants went into nursing for various reasons, they all seemed to have a deeply caring persona. Oertwich mentioned one comment that particularly struck her from a nurse who said that the health care system was already overtaxed before the COVID-19 pandemic, and that nurses are the “shock absorbers” who bear the brunt of the burden. The focus groups also revealed frustration among nurses who are being told that what they are experiencing is normal and that it is what they “signed up for” when they became a nurse.

Oertwich said that the Center for Nursing is developing a three-tiered marketing plan, and that she is working with the DHHS Procurement Office in order to obtain a contract with a marketing company for the project. Even though money for a marketing plan was included in the Center’s budget for this fiscal year, Oertwich said they still must get approval from the Procurement Office before they can sign a contract.

### **LPN IV THERAPY COURSE REQUIREMENT**

Oertwich said that the statutory date by which LPNs must meet the IV therapy education requirement is August 24, 2022. Oertwich said that Hampton does not think the Department has the statutory authority to expire the licenses of LPNs who do not take an 8-hour course in IV therapy or equivalent by this date.

### **2022 RN AND APRN LICENSE RENEWALS**

Oertwich reported that the renewal website is now open for RN and APRN renewals. Joyner noted that although continuing competency requirements are waived for all RNs and APRNs who renew this year, the continuing competency questions still appear on the online renewal application. Nurses who have not met the continuing competency requirement can answer “no” to all of the continuing competency questions, or answer “yes” to the option requesting a waiver for reasons beyond their control, or simply skip the continuing competency section.

## **NHA SCOPE OF PRACTICE ADVISORY GROUP**

Oertwich reported that only members of the Nebraska Hospital Association (NHA) can currently participate in the scope of practice advisory group. Oertwich said she has been told that the group is focusing on finding areas in statutes and regulations that they think are impeding health care staffing. Oertwich said she was asked by NHA to submit a list of all the different tasks that different levels of nurses can perform. Oertwich noted that nursing is not a task-based profession. Smidt said that focusing on tasks misses the point that nursing is primarily about assessment.

Delahoyde said that much of staff nurses' time is spent on documentation to make sure the hospital is in compliance with JCAHO requirements, and that the situation has been made worse by the removal of secretarial staff from hospitals. Motl noted that charting was once done by exception but that in some systems nurses are now required to fill in every box. Stones said that too many proposed solutions to the nursing shortage involve increasing the complexity of the system so that nurses have less time for patient care. She noted that there is substantial evidence that the more nursing care a patient receives, the better the patient's outcome.

Rogers said that she has received a number of calls asking if unlicensed can perform tasks such as starting an IV or injecting a contrast dye. Hoebelheinrich said she received a call from a nurse who reported that she was being required by an administrator to teach a phlebotomist how to access a port. Stones suggested the language might be developed that could help frontline staff handles situations where they are being asked to abet unlicensed practice or practice outside of their scope.

## **CREDENTIALING REVIEW**

The DHHS Credentialing Review Program is currently holding meetings on a proposal to allow pharmacy technicians to administer vaccines under the supervision of a pharmacist. Oertwich reported that the Nebraska Medical Association favors placing limitations on which kinds of vaccines pharm techs can administer, and that they particularly opposed to pharm techs administering routine childhood vaccinations, which they think should be part of a well-child visit.

The Credentialing Review Program is also holding meetings on a proposal to create a Certified Anesthesiologist Assistant license. Oertwich said that under the proposed model Anesthesiologist Assistants could only practice when a physician is present, although what would count as having a physician present has not been clearly defined. Oertwich said that it is unlikely that the proposal would increase the number of providers in rural areas, noting that of the approximately 252 physician anesthesiologists in Nebraska, only 37 work outside of the Lincoln and Omaha areas.

## **COMMUNICATION**

Oertwich reported that the next edition of *Nursing News* is in the editing phase. She also reported that the Nursing Section still has a vacancy for a Health Licensing Specialist.

12:15 p.m. Meeting went into recess.

12:46 p.m. Meeting reconvened.

## **JOURNAL ARTICLE DISCUSSION**

Members discussed the final chapter of the NCSBN's 2022 Environmental Scan, "Summary: What Regulators Can Expect in 2022 and Beyond." One item included in the "Summary" is the problem

posed by nurses providing nonscientific information to the public. Kollasch said that she expects to see an increase in cases involving nurses who spread misinformation on social media.

The article also cites a shortage of LPNs and the risk this poses to long-term care. Stones noted that although no one has come right out and said that the Magnet designation was a bad policy, there does seem to be some recognition that the focus on BSN nursing may have had undesirable side effects. Motl said that she does not think that the push for more BSN nurses in hospitals improved patient care, and that instead, it forced some very competent LPNs out of the workforce.

Members also noted the trend of using more unlicensed staff. Delahoyde said that nurses can still be held responsible for the actions of unlicensed staff. Adding more people for whom the nurse is responsible creates more stress. Stones said that she knows that nurses have left the profession because of the risks posed by a reliance on unlicensed staff.

Hoover mentioned that the Board has seen a number of cases where a nurse is alleged to have violated statutes or regulations but that the problem seems to stem from a larger system issue. Hoover said that it seems as if they are disciplining the wrong person sometimes. Lefler noted that a nurse might be disciplined for a mistake made while working a 20-hour shift, but it seems that they are unable to discipline an administrator who required a nurse work multiple 20-hour shifts.

Another topic discussed in the article is the increasing demand to do things remotely, including education and healthcare. Motl noted that hospitals are already using robots for telehealth assessments and to bring medications to patients, and she wondered about the implications of these practices in terms of regulations and quality patient care. Stones said that using more technology also increases the chances for cyberattacks, including attacks that place patients in significant risk.

Stones suggested that members to think of actions that might address their concerns. She noted that their ideas would be helpful at the Board's strategic planning session in October. Motl recommended that the Board review the relevant statutes and regulations to clarify what actions Board can or cannot take.

## **CONCLUSION AND ADJOURNMENT**

There being no further business, the meeting adjourned at 1:08 p.m.

Respectfully submitted,



Sherri Joyner  
Health Licensing Coordinator