

NEBRASKA BOARD OF NURSING
MINUTES OF THE MEETING

January 13, 2022

CALL TO ORDER

The meeting of the Nebraska Board of Nursing was called to order by Patricia Motl, Board President, at 8:31 a.m., January 13, 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 January 3, 2022, emailed to interested parties on January 3, 2022, posted outside the Licensure Unit within the Nebraska State Office Building on January 3, 2022, and posted on the Department of Health & Human Services website on January 4, 2022. Motl announced that a copy of the Open Meetings Act was available in the room

ROLL CALL

The following board members were present and answered roll:

- Theresa Delahoyde, RN
- Tag Herbek, *Public Member*
- Tom Hoover, RN
- Lisa Kollasch, APRN-NP
- Patricia Motl, RN *Board President*
- Kristin Ruiz, RN
- Brenda Smidt, RN
- Sonét Smutny, RN
- Linda Stones, RN
- Rita Thalken, *Public Member*

The following Board members were absent: Angela Kula, LPN, and Kandis Lefler, LPN

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*
- Jacci Reznicek, RN, *Nursing Education Consultant*
- Sherri Joyner, *Health Licensing Coordinator*
- Teresa Hampton, *DHHS Legal*
- Lisa Anderson, *Assistant Attorney General*
- Brittany Bigham, *Investigator*
- Jessica Bowman, *Investigator*
- Andrea Cramer-Price, *Investigator*
- Susan Held, *Investigator*
- Patricia Lemke, *Investigator*
- Mendy Mahar-Clark, *Investigator*

A quorum was present, and the meeting convened. Introductions were made on behalf on the new Board members.

ADOPTION OF THE AGENDA

MOTION: Stones made the motion, seconded by Ruiz, to adopt the agenda for the January 13, 2022, Board of Nursing meeting.

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

APPROVAL OF THE MINUTES

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

These minutes were approved by the Board
of Nursing on February 10, 2022.

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

CLOSED SESSION

MOTION: Stones made the motion, seconded by Ruiz, 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, Motl, Ruiz, Smidt, Smutny, Stones, and Thalken.
 Voting No: None. Abstain: None. Absent: Kula and Lefler. 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.

8:45 a.m. Meeting went into closed session.
 9:03 a.m. Smutny left the meeting.
 9:10 a.m. Smutny returned to the meeting.
 10:10 a.m. Smidt left the meeting.
 10:20 a.m. Smidt returned to the meeting.
 11:03 a.m. Anderson left the meeting. Hampton arrived to the meeting.
 11:33 a.m. Meeting returned to Open Session. Anderson returned to the meeting.

LICENSURE RECOMMENDATIONS

ERIN M. DUBRAY– LPN REINSTATEMENT (NON-DISCIPLINARY)

MOTION: Ruiz made the motion, seconded by Delahoyde, to recommend denying Erin DuBray's reinstatement application based on misdemeanor convictions rationally related to the profession and disciplinary action against her license in another jurisdiction as evidenced by the October 2021 Order in Colorado.

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

ALISON M. BROST – RN REINSTATEMENT FROM DISCIPLINE

MOTION: Ruiz the motion, seconded by Delahoyde, to recommend reinstating Alison Brost's RN license on probation under the terms and conditions specified in the Order dated August 18, 2021. The recommendation for reinstatement is based on applicant's previous compliance with probation conditions.

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

TAYLOR R. DENNIS – LPN REINSTATEMENT FROM DISCIPLINE

MOTION: Stones made the motion, seconded by Delahoyde, to table Taylor Dennis' reinstatement application in order to obtain additional information.

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

JENNIFER N. STAFFNE (AKA GOUL) – RN REINSTATEMENT FROM DISCIPLINE

MOTION: Ruiz made the motion, seconded by Hoover, to recommend issuing Jennifer Staffne a temporary license on probation for the purpose completing a board-approved refresher course within 18 months, and following successful completion of the course, reinstating her RN license on probation for two 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 2080 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 substance use disorder and violation of the Uniform Controlled Substances Act. The recommendation for reinstatement is based on applicant's current participation in treatment, compliance with treatment recommendations, active involvement in the substance abuse/addiction recovery process, reported period of sobriety from June 2020, and positive letters of reference from coworkers, sponsor, and CEO of recovery center.

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

MANDY J. MCCARTHY – RN REINSTATEMENT FROM DISCIPLINE

MOTION: Smutny made the motion, seconded by Stones, to recommend reinstating Mandy McCarthy's RN license without restrictions. This recommendation for reinstatement is based on applicant's completion of treatment, compliance with treatment recommendations, active involvement in the substance abuse/addiction recovery process, reported period of sobriety from March 15, 2017, attendance at support group meetings and maintaining a sponsor, and positive letters of reference from multiple sources.

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

PRACTICE COMMITTEE

MOTION: The Practice Committee moved that the Board approve revisions to the *Team-Based Nursing Care* Advisory Opinion.

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

MOTION: The Practice Committee moved that the Board reaffirm the *Safe Practice: Fitness to Practice* Advisory Opinion.

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

MOTION: The Practice Committee moved that the Board reaffirm the *Safety to Practice: Staffing Assignments* Advisory Opinion.

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

COVID-19 RELATED ISSUES

Oertwich reported that Executive Order 21-12, which was originally scheduled to expire on December 31, 2021, has been extended through March 31, 2022. The Executive Order allows for the issuance of provisional RN and LPN licenses to new graduates before they take NCLEX, and also allows for the reinstatement of expired and inactive licenses to nurses who do not meet the continuing competency requirements. Because staff could not confirm until late December that the Executive Order would be extended, Oertwich said that Reznicek worked closely with RN and LPN programs in Nebraska to ensure issuance of provisional licenses to as many qualifying December graduates as feasible. Oertwich also reported that approximately 44 emergency reinstatements have been issued since Executive Order 21-12 was signed.

Oertwich noted that nurses can be terminated for not following their employers' vaccination requirements.

Members reviewed the National Council of State Boards of Nursing's policy statement on the dissemination of misleading COVID-19 information by nurses, including the dissemination of misleading information through social media. Motl noted that employers can also set their own policies regarding use of social media. Hoebelheinrich noted that complaints regarding nurses' use of social media need to be reviewed on a case-by-case basis since the particulars of each case can vary widely. Reznicek suggested publishing the NCSBN policy statement in the next edition of *Nursing News*.

INITIATIVES TO ADDRESS NURSING SHORTAGE

Oertwich reported that the Nebraska Board of Regents will likely receive a HRSA grant to fund the UNMC & Center for Nursing's proposals for nurse resiliency training. Although the idea of applying for the grant was initiated by the Center for Nursing, Oertwich noted that one of the grant requirements was that it could only be awarded to an institution of higher education. The four main components of Nebraska's proposal are to 1) promote resiliency among nursing students, 2) develop mental health nursing across the state, 3) provide training to middle managers, and 4) provide funding for regional response teams for critical incident debriefings.

Oertwich reported that the Nebraska Hospital Association (NHA) has issued a final draft of its proposals to alleviate the nursing shortage in Nebraska. The hope is that monies made available by the American Rescue Plan Act (ARPA) will be allocated to fund some of NHA's recommendations. Oertwich noted that many other groups are also vying for ARPA monies, and based on the appropriation bills that have been introduced so far, Oertwich was not optimistic that ARPA funds will be provided to nursing-related initiatives.

Oertwich also reported that the Center for Nursing's plan to conduct focus groups among frontline nurses across Nebraska will probably go through an IRB (Institutional Review Board) approval process through UNMC. Oertwich said that the focus group project has become intertwined with the HRSA grant projects.

Oertwich also reported that she and the Center for Nursing's statistical consultant, Juan Ramirez, have spoken with Tom Rauner from the DHHS Rural Health Recruitment and Retention program about the possibility of starting a loan program for RNs and LPNs in Nebraska if ARPA funds become available. Hampton noted that this might require statutory changes.

NCSBN MIDYEAR MEETING

The National Council of State Boards of Nursing (NCSBN) will hold its Midyear Meeting this year on March 15th through March 17th. Oertwich reported that NCSBN has told people to defer making travel arrangements for the meeting. NCSBN had originally planned for a hybrid meeting with both in-person and virtual components, but that they might move to an all-virtual format.

COMMUNICATION

Surgical First Assistant Regulations – Oertwich reported that a public hearing on the regulations for Surgical First Assistants will be held on January 22, 2022. Oertwich said that the revised regulations do not include language about delegation.

Nursing News – Oertwich reported that the deadline for submission of articles for the next edition of Nursing News is January 21st.

Staff Updates – Oertwich reported that the Licensure Unit is currently fully staffed. A job listing for the Nursing Practice Consultant position has been posted in anticipation of Hoebelheinrich's retirement. Oertwich said that by statute they cannot require applicants for the position to have an APRN license, but the job posting does state that APRN licensure is preferred.

12:14 p.m. *Meeting went into recess.*

12:29 p.m. *Meeting reconvened.*

JOURNAL ARTICLE DISCUSSION

Stones said the idea to make discussion of a journal article part of Board meetings was prompted by her participation in NCSBN's International Center for Regulatory Scholarship (ICRS) program. Stones encouraged Board member to participate in the program, noting that they can enroll in courses for free, and that nurses from across the country participate. Both Stones and Motl said that they have found the course in administrative law to be particularly helpful in their roles as board members.

Members discussed "An Update on Clinical Judgment in Nursing and Implications for Education, Practice, and Regulations," from the *Journal of Nursing Regulation*. One question prompted by the article is whether the clinical judgment of a new nurse should be assessed differently than that of an experienced nurse. Motl said that students and new nurses need to be provided with verbal prompts and with the time to reflect on their observations when interacting with patients so that they can learn to pick up on the cues. Focusing exclusively on skill development can hamper the development of clinical judgment. Kollasch noted that it was particularly concerning that only 35% of new nursing graduates demonstrated a safe level of clinical judgment when new graduates are increasingly being pushed into more complicated situations earlier in their careers. Stones noted that some experienced nurses now find that they need to develop and use different types of clinical judgment because they have been moved to different units to cover staffing shortages caused by the COVID-19 pandemic.

12:50 p.m. *Herbek left the meeting.*

NEW MEMBER ORIENTATION

Members reviewed the PowerPoint slides developed by the Licensure Unit to orient new board members. Topics covered included the three DHHS entities (Licensure Unit, Investigations, and Legal) that play a role in board meetings, the Uniform Credentialing Act, the difference between umbrella boards and independent boards, conflict of interest, reimbursement of expenses related to conducting board business, the Board's role in approving pre-licensure RN and LPN program, the discipline process, conviction guidelines approved

by the board to be used by staff when reviewing applications, mandatory reporting, board members ability to testify at legislative hearings, and administrative penalties.

CONCLUSION AND ADJOURNMENT

There being no further business, the meeting adjourned at 1:30 p.m.

Respectfully submitted,



Sherri Joyner
Health Licensing Coordinator