



OHIO BOARD OF NURSING

MINUTES OF MEETING

BOARD RETREAT – APRIL 13-14, 2016

The Ohio Board of Nursing Retreat was held on April 13-14, 2016 at the Drury Inn at 6170 Park Center Circle, Dublin, Ohio. The President, Vice-President, and Executive Director reviewed the agenda prior to the meeting.

On Wednesday, April 13, at 9:06 a.m., President Maryam Lyon called the meeting to order. On Thursday, April 14, at 9:03 a.m., President Maryam Lyon called the meeting to order.

BOARD MEMBERS

Maryam Lyon, RN, President
Janet Arwood, LPN, Vice-President
Brenda Boggs, LPN
Judith Church, RN (Absent Wednesday and Thursday)
Nancy Fellows, RN
Lisa Klenke, RN (Arrived at 10:00 a.m. on Wednesday)
Lauralee Krabill, RN
J. Jane McFee, LPN
Sandra Ranck, RN
John Schmidt, RN
Patricia Sharpnack, RN
Sheryl Warner, Consumer Member

Unless noted in these minutes as exhibits, all written reports submitted to the Board are maintained in the Board office according to the Board record retention schedule.

WELCOME AND ANNOUNCEMENTS

Board President Maryam Lyon welcomed the attendees. Vice President Janet Arwood read the Board mission each day.

COMPLIANCE PROGRAM

Compliance Protocols

Lisa Ferguson-Ramos reviewed proposed revisions to the Disciplinary Complaint Protocol; Discipline Priorities and Guidelines Protocol; and Settlement Conference Protocol.

Quasi-Judicial Worksheets

L. Ferguson-Ramos reviewed the revised Quasi-Judicial Worksheets. Board members requested that they have electronic versions of the form with electronic signatures that can be inserted.

Marijuana Discussion

H. Fischer reviewed federal and Ohio law related to the use of marijuana by licensees. Section 4723.28(B)(8), ORC, authorizes the Board to discipline a licensee for self-administering or otherwise taking into the body any dangerous drug, as defined in Section 4729.01, ORC, in any way not in accordance with a legal, valid prescription issued for that individual, or self-administering or otherwise taking into the body any drug that is a schedule I controlled substance. Marijuana is listed as Schedule I under the Controlled Substances Act for purposes of federal law. Marijuana is listed in Ohio as a schedule I. Thus, even if marijuana is prescribed or obtained legally, unless federal and Ohio law change, it remains schedule I, and testing positive for marijuana would remain a violation of Section 4723.28(B)(8), ORC. Section 4723.28(B)(10), ORC, authorizes the Board to discipline a licensee for impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of the use of drugs, alcohol, or other chemical substances. Section 4723.28(B)(10), ORC, does not depend on whether or not marijuana was legally obtained, however, "impairment" must be shown. Thus, even if marijuana were to be legalized in Ohio and/or legally obtained, observed impairment on the job would constitute a basis for disciplinary action, as is the case with alcohol impairment. The Board reviewed the ONA Position Statement on Marijuana.

Effective Investigatory Processes

The Board reviewed "Commitment to Ongoing Regulatory Excellence-Report of the Discipline Effective Practices Subcommittee" that includes various types of recommended forms. In 2014, the NCSBN Commitment to Ongoing Regulatory Excellence (CORE) committee selected ten states representative of high performing and steadily improving boards to participate in a Discipline Effective Practices Subcommittee. The purpose of the subcommittee was to create resources for Member Boards to use in the area of discipline. Lisa Ferguson-Ramos represented the Board on the subcommittee.

Alternative Program for Chemical Dependency Review/Audit

L. Ferguson-Ramos provided an overview of the Alternative Program for Chemical Dependency for the Board's review and audit.

Practice Intervention and Improvement Program Review/Audit

L. Ferguson-Ramos provided an overview of the Practice Intervention and Improvement Program for the Board's review and audit.

Monitoring

The Board reviewed information about monitoring developed by the Board Monitoring Agents. This information will inform licensees, defense attorneys and employers about how licensees are to comply with Board Orders and Consent Agreements. Licensees will be directed to review the information before the initial conference call or meeting with the Monitoring Agent.

Complaints

L. Ferguson-Ramos reviewed the complaint form and explained the process. She identified revisions to the complaint information provided to employers and consumers.

COMPACT STATEMENT

B. Houchen provided background information about the Compact, also known as multi-state licensure. The Board reviews the Board Statement on Multi-State Nurse Licensure at least annually. At the 2015 Retreat, the Board discussed the new/enhanced Compact and re-affirmed the Board Statement. At the November 2015 meeting, the Board re-affirmed an updated Board Statement that included the Board's concerns with the new/enhanced Compact.

It was noted that NCSBN is vigorously promoting the Compact, pursuing endorsements by national organizations, and offering lobbying assistance to states. The Compact is promoted based on the benefits of nurse mobility. Board members discussed that while the new/enhanced Compact may promote mobility, and it has addressed criminal record checks for new applicants, the Board believes that there continue to be significant discrepancies in disciplinary actions, legal issues regarding the broad authority of the Commission that will govern the Compact states, and unknown fiscal implications.

The Board reviewed the ProPublica newspaper article, "Weak Oversight Lets Dangerous Nurses Work In New York." Board members expressed concern that compact licensure exacerbates these types of disciplinary issues; there is a greater potential for nurses with egregious violations or criminal histories to be mobile and move to practice in other Compact states. If no disciplinary action is taken or if disciplinary action is delayed as the article describes, the nurse can practice in any Compact state the nurse chooses without the state knowing of the criminal history or nurse practice act violations. With single state licensure, the individual must apply to the board for a single state license, disclose pertinent information, and complete a criminal records check.

Board members concluded that while Compact licensure may be advantageous for mobility, an expedited endorsement process facilitates mobility, and the Board continues to believe that potential risks of harm to the public outweigh the potential benefits of Compact licensure. The Board agreed by general consensus

to re-affirm the Board Statement on Multi-State Nurse Licensure as presented and not to pursue the new/enhanced Compact at this time.

MILITARY TRAINING

B. Houchen presented the materials related to military training. In the fall of 2015 B. Houchen and T. Dilling met with representatives of the Ohio National Guard, the Office of Workforce Transformation, and the Military and Veteran Affairs Department regarding a pathway for medics to obtain licensed practical nurse (LPN) licensure in Ohio. As a result of the ongoing discussions and research, Board staff prepared the “Veterans and Service Members Training and Nursing Education Programs” Report. The military representatives stated the Report is useful and agreed with the recommendations.

The Board reviewed the report and agreed with the recommendation that NCSBN conduct another Gap Analysis, based on the higher-level medic training courses and experience, to determine how gaps can be addressed in order to create a better pathway for Air Force personnel to become licensed. The Board is awaiting notification from NCSBN about conducting the Gap Analysis.

CORE and TERCAP

The Board is a participant in the NCSBN Commitment to Ongoing Regulatory Excellence (CORE). B. Houchen presented the CORE data reports for the Board’s review and discussion.

B. Houchen also presented an NCSBN report that provides descriptive information for 260 TERCAP practice cases submitted by the Board to NCSBN for the national nursing practice database. TERCAP (Taxonomy of Error, Root Cause Analysis and Practice-Responsibility) is a tool used to gather data and track cases involving practice breakdown.

ADMINISTRATIVE RULES

H. Fischer provided an overview of the rule chapters the Board will review for the five-year review requirement: Ohio Administrative Code Chapters 4723-5, Nursing Education Programs; 4723-7, Examination and Licensure; 4723-13, Delegation of Nursing Tasks; 4723-27, Medication Administration by Certified Medication Aides. The Board also reviewed individual rules not slated for five-year review, but are either required to be revised, or recommended to be updated, due to recent legislative action, or for technical reasons. Board members discussed the revisions and will review draft rule language at the May Board meeting. An interested party meeting will be scheduled.

STRATEGIC PLAN

B. Houchen reviewed the proposed revisions for the strategic plan. The revised Strategic Plan will be placed on the May Board agenda for approval.

LEGISLATIVE DISCUSSION

Tom Dilling presented and highlighted the legislative report. Nancy Fellows spoke about patient safety concerns and that she would be in favor of requiring RN circulators in the peri-operative area; such a requirement is not included in HB 373 (Surgical Technicians) at this time. She also stated that she believes the Nursing Board, rather than the Medical Board, should regulate surgical technicians. The Board will continue to monitor the bill and contact nursing associations about their position.

T. Dilling reported on the interested party meetings regarding HB 266, Respiratory Care Therapists (RCT). RCT representatives will be included in the ongoing discussions regarding protocols with the Ohio Hospital Association.

T. Dilling reviewed HB 216 and SB 279, Advance Practice Registered Nurses, and the proposed changes to APRN practice authority. The bill also includes proposed changes to Board governance, i.e., qualifications of Board officers, required quorum for Board meetings, composition of the Board, etc. He reported that he continues to request the rationale for the inclusion of these provisions. Board members stated they have disagreements with the Board governance provisions of the bill. A fourth version of HB 216 is being developed and T. Dilling has requested a meeting with the Ohio Association of Advanced Practice Nurses to discuss the proposed revisions for the new version and removal of the Board governance components in the bill.

OPEN FORUM – Thursday, April 14, 2016

Open Forum was held at 10:18 a.m. Willa Ebersole, President of Pappas & Associates, presented at Open Forum on behalf of the Ohio Renal Association.

DIALYSIS TECHNICIANS

Lisa Emrich and Lesleigh Robinson presented information regarding the regulation of dialysis technicians and training programs. Maryam Lyon provided an overview and history of the Board regulating dialysis technicians (DT) and stated that the Centers for Medicare and Medicaid Services (CMS) has a similar oversight role through the federal Medicare-certification program; the Ohio Department of Health (ODH) surveys dialysis care/facilities as the designated state agency for CMS. M. Lyon stated she believes the OBN/federal regulatory oversight roles could be duplicative.

Board members discussed the oversight by the Board and CMS and risks if the Board no longer regulates dialysis. The primary discussion involved whether CMS provides equivalent oversight for requirements of DT training programs, individual certification of DTs, and complaints about DTs.

The Board requested that staff obtain additional information about CMS and ODH processes for further analysis. Lisa Klenke suggested one option may be to decrease duplication where possible, but continue certain aspects of the Board's regulatory oversight. The Board discussed that, for example, regulation of certain certification and training requirements could be eliminated through Nurse Practice Act amendment, but the Board's jurisdiction would be retained so if there were Board action regarding substandard practice, criminal offenses, or patient abuse, etc., a public record would be available for the public and future employers.

The Board agreed by general consensus for Board staff to obtain additional information and provide another comparison regarding CMS and Board regulations for discussion and consideration. The information will also be presented to the Advisory Group on Dialysis for consideration.

ETHICS TRAINING

H. Fischer presented an Ohio Ethics Commission online e-course, The Ohio Ethics Law: Cultivating Good Governance. Those in attendance fulfilled the Governor's requirement for annual instruction on Ohio's Ethics Laws, in accordance with Executive Order 2011-03K.

NURSING EDUCATION PROGRAM ANNUAL REPORT DATA COLLECTION

L. Emrich reviewed the revised data questions for the Nursing Education Program Annual Report for RN and PN education programs for 2016. The Ohio Action Coalition requested that the Board include the National Forum Nursing Workforce Minimum Dataset (MDS) questions, which have been incorporated. Board members offered additional suggestions, and staff will follow-up to clarify some of the questions.

3.0 ELICENSE SYSTEM OVERVIEW

L. Robinson provided an overview of the new eLicense system and several issues that have arisen. Board staff is attending extensive meetings with DAS/OIT and the vendor for the development of the new 3.0 eLicense system.

L. Robinson discussed the NCLEX examination information being available to the public. When an applicant passes the NCLEX, Board staff issue a nursing license and update the credential to "active". If an applicant fails the NCLEX, Board staff mark the credential as "closed" which indicates the applicant failed the NCLEX. L. Robinson asked the Board about continuing to have the "closed" statuses available for the public to view.

Board members discussed that although some nursing peers may use the information negatively toward the nurse, the information is provided as a public protection measure. Further, employers want access to the information so they can be fully informed. The Board agreed by general consensus to keep all

“closed” statuses viewable to the public, and that the statuses will be maintained for public view even if an individual requests it be removed.

Board members discussed regulations regarding the number of times an individual is permitted to take the NCLEX and how soon an individual is required to take the examination after completing their nursing education program. Several years ago, the Board reviewed these issues and currently there are no restrictions or limitations. Board staff will provide updated information regarding these testing issues for the Board to review.

MISCELLANEOUS

Evaluation of Retreat Meeting

Board members stated they appreciated the annotated agenda and they like the meeting place.

Hotel Plans for 2017 Retreat

Board members agreed to return to the Drury Inn & Suites for the 2017 Board Retreat.

Board Meeting Agenda

Board members agreed by general consensus to hold Executive Session on Thursday, rather than Wednesday, of each Board meeting.

The meeting adjourned on Thursday, April 14, 2016 at 2:33 p.m.

Maryam Lyon, MSN, RN
President



Attest:

Betsy Houchen, RN, MS, JD
Executive Director

