

**OHIO BOARD OF NURSING  
BOARD RETREAT  
APRIL 16-17, 2007  
9 A.M. – 4 P.M.**

The mission of the Ohio Board Of Nursing is to actively safeguard the health of the public through the effective regulation of nursing care.

The following Board members and staff participated in the Board Retreat held at the Drury Hotel, 6170 Parkcenter Circle, Dublin, Ohio.

**Board Members:**

Cynthia Krueger, MSN, RN, President  
Teresa Williams, LPN, Vice President  
Anne Barnett, BSN, RNC  
Janet L. Boeckman, RN, MSN, CPNP  
Judith Brachman, Consumer Member (Absent)  
Debra Broadnax, MSN, RN, CNS, Supervising Member, Disciplinary Matters  
Patricia Burns, LPN  
Elizabeth Buschmann, LPN  
Kathleen Driscoll, JD, MS, RN  
Lisa Klenke, MBA, RN, CNA-A  
J. Jane McFee, LPN  
Kathleen O'Dell, RN, M.Ed., N.C.S.N.  
Eric Yoon, MSN, ACNP, CCNS

**Board Staff:**

Betsy Houchen, RN, MS, JD, Executive Director  
Katherine Bockbrader, JD, Assistant Attorney General (present Tuesday)  
Lisa Emrich, MSN, RN, Education & Practice Unit Manager  
Lisa Ferguson Ramos, RN, JD, Compliance Unit Manager  
Holly Fischer, JD, General Counsel  
Lesleigh Halliburton, RN, MS, Licensure, Certification & CE Unit Manager  
Diana Hisle, Executive Assistant  
Stacy Thacker, MS, Administrative Unit Manager

**Welcome and Announcements**

President Cynthia Krueger welcomed Board members and staff. President Krueger and Director Houchen facilitated the discussions throughout the Retreat. Vice President Teresa Williams read the Board mission statement each day.

An updated Table of Organization was provided, as requested at the last Board meeting. C. Krueger announced that one-hour of Category A continuing education would be provided during the Retreat in conjunction with the review of law and rules during the Compliance discussion.

## **Board Agenda and Processes – 2007**

### **Scheduled Board Agenda items**

The Board members received a chart showing scheduled Board Agenda items. Following review and suggested changes, the Board agreed by general consensus that continuing education needs for Board members could be decided in January and provided, as needed, at the March meeting and the Board Retreat.

### **Emerging Issues**

B. Houchen asked the Board about conducting an annual Emerging Issues conference. L. Emrich provided an overview of past conferences regarding registration fees, attendance, and topics. Following discussion, the Board agreed by general consensus that if the Board's legislative proposals are enacted, an Emerging Issues conference be held next summer in Columbus to review the legislative proposals and to cover new or amended rules. Also, the Board members noted they provide numerous presentations in their areas and at times have used presentations developed by staff as a basis for the Board members' presentation. Staff said they would continue to make this information available as requested.

### ***Momentum***

Board members reviewed the 2007 *Momentum* – Timelines and Content chart. J. McFee suggested that LPN practice issues be included under planned content for each issue. It was agreed to revise the wording to reflect "nursing" practice and to include RN, LPN, and APN practice issues. The Board also asked for clarification regarding the listing of duplicate licenses in the publication and discussed the purpose of publishing the information. Staff stated they would review the description and make sure the listing was separate from the disciplinary section.

### **Board Governance Survey Results**

Board members received the 2007 Board Member Governance Survey results. C. Krueger stated there was one outlier that resulted in skewed numbers. She reviewed the results and asked for feedback. Following review, it was suggested that because this same issue occurred with the scoring last year, the scale be re-designed and instructions be included to encourage comments explaining low ratings. The Board agreed by general consensus that the scale of the survey tool be reformatted into columns. There was a question about the review of Board policies and C. Krueger recommended that a schedule be established to complete revisions and updates of the Board policies and guidelines. Staff agreed to follow-up with a schedule.

### **Board Appointments – Questionnaire**

The Board received a “Boards and Commissions-Application Form” as made available from the Governor’s office. Those interested in appointment or reappointment to the Board are to submit the form as soon as possible. This form is also available on line.

### **Advisory Group Meeting Processes**

B. Houchen began a discussion regarding Advisory Group meeting processes. L. Klenke suggested a process be developed for consistency. B. Houchen agreed and stated staff has been working toward more consistency in handling communications and materials for the various groups. D. Broadnax asked if members could receive hard copies rather than emails and if members would receive the bound copy of the Nurse Practice Act (NPA) and the rules. B. Houchen stated that the rules are being reprinted due to an error. Our print orders are calculated to provide a copy to members of the Advisory Groups and Board members. She also stated that we could provide the meeting materials and information however each member prefers and we could ask each member to inform us of their preference. Following discussion, B. Houchen stated that staff would begin drafting a policy. K. Driscoll requested that the draft Board meeting minutes be provided to Board members before reporting current Board updates to the Advisory Group they chair. K. Driscoll suggested there be a discussion regarding the meeting processes in collaboration with the Advisory Group members before adopting a finalized policy.

### **2007 Rule Review Schedule**

#### **Schedule for Five-Year Review Rules**

The Board received the five-year rule review (2007-2011) schedule. B. Houchen indicated that the staff has begun the internal review and drafts will be provided at the July Board meeting. The Continuing Education rules will also be reviewed again this year. The Continuing Education Advisory Group meets later in April to review the rules. In addition to the listed rules for review, the Medication Aide rules may need to be revised depending on the outcome of legislative proposals.

### **Chapter 5 (Education rules) – Topics For Discussion**

In addition to the five-year review list, Chapter 5 rules will be reviewed for curriculum and other areas being discussed with the Nursing Education Advisory Group. L. Emrich distributed a list of possible additional changes suggested for 4723-5 OAC - Survey Visits. Ms. Emrich indicated that these changes were suggested by the Education Advisory Group during its meeting last week. L. Emrich reviewed the changes and requested feedback from the Board. Board members were in agreement and had no additional suggestions.

**NCLEX Testing – Discussion for licensure**

The Board reviewed the following documents: A memo regarding NCLEX Testing with the attachment “Other States’ Requirements for Re-Testing;” NCSBN Data on Pass Rates; Ohio Education Programs’ Pass Rates; and the NCSBN News Release on raising the NCLEX Passing Standard.

B. Houchen stated that during the last five-year rule review a question was raised regarding the number of times an individual could take the NCLEX. Currently, Ohio places no limitation, while other states do set limits. The most recent data from NCSBN is their 2003 Board Member Profile publication, which shows that some states place limitations on the number of times a candidate can re-test within a twelve-month period and some states require applicants to complete additional study.

C. Krueger stated there was another issue she recently became aware of. An individual who graduated five years ago, never took the NCLEX, and now plans to apply to take the NCLEX examination in Ohio. This would impact nursing education programs because their pass rates would be lowered. She asked if individuals should be required to take additional study if they do not take the NCLEX within a certain period of time. She stated that studies show that first-time test takers are successful in passing the NCLEX within six months following graduation, but after that time-period, the success rate decreases. The Board began a discussion about setting a timeframe from the date of graduation to take NCLEX and limiting the number of re-takes.

It was noted that the only limitation NCSBN imposes, through the testing company Pearson Vue, is that an individual cannot repeat the NCLEX any sooner than forty-five days. J. McFee stated she likes the limitation and remediation that Texas requires. A. Barnett asked about the requirements in contiguous states. Several members stated they would prefer to allow unlimited testing within two or three years, and then remediation would be required. Other members stated individuals should be required to take the NCLEX for the first time within one year of graduation. However, they noted the next question is what would the Board require if an individual did not take the NCLEX within one year of graduation? K. Driscoll asked how big of a problem is this for Ohio. C. Krueger stated it is an issue for the Board because it impacts public safety. L. Klenke noted that if Ohio law is changed, a way to circumvent the change could be for nurses to become licensed in another state and then apply to endorse into Ohio. The Board agreed by general consensus that first-time takers be required to take NCLEX within a year after graduation or have a final deadline to take NCLEX within three years after graduation, with additional study. The Board asked staff to review the impact on staffing and workloads if the Board changed the requirement. C. Krueger stated that first time takers could be monitored by their program completion dates. It was also

recommended that staff gather additional information regarding:

- NCSBN data or data from contiguous states
- Type of remediation required and how monitoring is handled by other states
- Requirements for other health care professions, i.e., medical, pharmacy, etc.
- What statutory or rule changes would be required
- Contiguous state requirements regarding NCLEX pass rates for nursing programs and if they have provisions for outliers
- Number of times Ohio applicants take the NCLEX

C. Krueger suggested that for education programs, a provision could be discussed that would address outliers. L. Klenke and C. Krueger recommended that the Board address the issue for education programs regarding the NCLEX rates in Chapter 5 rule revisions.

### **Compliance**

The Board discussed Complaint Process and Protocols; Violations of Consent Agreements; Case Discussion; Juvenile Crimes and Expungement; Orders for Examinations; and Summary Suspensions.

L. Ferguson-Ramos summarized the discipline priorities and asked for comments and recommendations. There was general consensus that the priorities and the processes currently in place continue to work well. L. Ferguson-Ramos next reviewed the "Processing and Disposition of Complaints." Board members discussed revisions and there was general consensus by Board members to make suggested changes. L. Ferguson-Ramos distributed a document entitled, "Addition to Processing and Disposition of Complaints for Dialysis Technicians." The Board's policy has been to issue an advisory letter to dialysis technicians working less than three months on a lapsed certificate and the Board generally issues a reprimand and a fine of \$150 for working over three months on a lapsed certificate. Because the Board is considering revisions to the process of issuing temporary certificates for dialysis technicians, Board members agreed that staff should continue the current practice for discipline for these cases, and then the Board would discuss the issue again after a determination has been made about the temporary certification process.

L. Ferguson-Ramos next reviewed the "Applicant Protocol" which is used as a guideline for applicants for licensure by examination and endorsement when the applicant has provided an affirmative response to one of the compliance questions and/or if the criminal records check report is positive. It was suggested that on the chart provided, a category be added for clarification regarding DUI convictions. L. Ferguson-Ramos stated that all revised documents would be provided at the May Board meeting.

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H. Fischer provided an overview and answered questions regarding a memo dated June 2004 from AAG Kathy Bockbrader regarding expungement. The Board thanked L. Ferguson-Ramos and H. Fischer for providing information on cases.

E. Yoon asked about the regulation of medical assistants. Staff noted that medical assistants are not regulated in Ohio and can work only at the delegation of a physician, nurse or other health care provider in accordance with the regulations for the delegating physician, nurse or provider. E. Yoon is concerned that medical assistants are not being regulated and are being used more extensively in the health care system.

The Board discussed Consent Agreements and addendums. C. Krueger clarified that there may be addendums to modify probationary terms, but there could be an issue if numerous addendums were used for additional violations. D. Broadnax pointed out that the licensees under consent agreements are either not practicing or are being monitored. The other option would be to hold more hearings, and the licensee continues to practice until a hearing is held and the Board takes action. Also, the case could be appealed, which also allows the licensee to continue practicing. D. Broadnax stated that it is important to receive the Board's feedback on the process used for consent agreements in terms of impacting negotiations and what the Board wants to see. She further stated that she believes that the Board is consistent because of the processes in place. L. Ferguson-Ramos agreed with D. Broadnax.

T. Williams stated she believes input and questions from Board members are important and it reflects that they feel free to voice their opinions. K. Driscoll asked about monitoring Consent Agreements with three or more addendums. There was a discussion regarding frustration with repeat violators and licensees who enter Consent Agreements and do not complete the terms of the agreement. D. Broadnax stated she thinks that aggregate data for revocations would be useful for the Compliance Unit to review. C. Krueger summarized that data would be helpful to review consistency with no request for hearing cases and the number of consent agreement addendums used.

On Monday April 16, 2007, the Retreat ended at 4:10 p.m.

### **Tuesday April 17, 2006 - 9:00 a.m.**

#### **Follow-Up of March Board Meeting Regarding Reporting**

At the last Board meeting, a question was raised about employer reporting. H. Fischer stated that the Board is proposing language that would require an employer/facility to report on licensees or certificate holders from staffing pools or agencies who were assigned to and working at the facility. L. Klenke stated she believes there is confusion about reporting and employers are unsure when to report. A. Barnett states that some human resources departments are

concerned with liability. L. Ferguson-Ramos stated that she informs individuals to report if they are unsure, so the Board can determine if a violation has occurred. K. Driscoll believes that implementing the new PIIP processes that include the employer's submission of a remediation plan could help, because the facility would be reporting to the Board and developing a remediation plan. L. Klenke believes it is important to educate staff nurses who become nurse managers about reporting.

The Board discussed what education could be done or made available regarding this issue. The Board agreed that another article should be written for the Summer 2007 issue of *Momentum*. Also, for presentations, information can be added to focus on reporting and responsibilities to report. Board members and staff could use this for presentations. Board staff will add the previously prepared power-point slides, explaining the duty to report and the new PIIP processes, to the Board's website. K. Driscoll suggested that the OCADNEA and OOPNE groups and nursing education programs be included in order to get the same information out to the larger groups and to students.

### **Proposed Statutory Changes**

The Board received a memo regarding the Board's Legislative Initiatives. As a follow-up to the March Board meeting, clarification was provided regarding the proposed statutory language implementing additional absolute bars, time-precluded felony bars to licensure, and sex offender language.

Under the five-year bar to licensure, some members believe the bar should be seven to ten years while others agreed with the five-year bar. H. Fischer reminded the Board that the bars applied only to applicants for licensure. C. Krueger reminded the Board that the five-year recommendation was based on the studies regarding rates of recidivism. C. Krueger commented that the bars would help potential nursing school applicants because they may then choose not to enter a nursing education program. D. Broadnax commented that she was concerned about the five-year bar, believing that it may not be equally applied and could be unfair based on the disparities in county court systems. She believes that cases should be dealt with on a case-by-case basis, however she understands the reasons for and supports the Board's decision. Following discussion, C. Krueger asked the following:

1. How many members are in favor of Section 1) Additional Absolute Bars to Licensure? All Board members were in favor of this proposed provision for the NPA.
2. How many members are in favor of Section 2) Sex Offender Status. All Board members were in favor of this proposed provision for the NPA.
3. How many members are in favor of Section 3) Five-Year Bar to Licensure. All Board members, except for J. McFee, were in favor of this proposed provision for the NPA. J. McFee then clarified she would like to abstain from weighing in on this provision.

## **Education Programs**

### **Role of Education Consultants**

L. Emrich began a discussion about the role of the Board's education consultants and the submission of applications for program proposals for new pre-licensure nursing education programs. L. Emrich commented that the education consultants spend a great deal of time working with proposed education programs to help them develop a proposal that will meet Board requirements. The Board discussed the Board's role of "consulting" to assist an applicant in developing a new program proposal, or whether the applicant needing this type of assistance should hire a consultant prior to submitting their proposal to the Board. B. Houchen stated that the title of "consultant" may be somewhat misleading because the role of the Board consultants is to determine if programs meet the requirements and maintain compliance. The Board educational consultants answer questions and provide technical assistance, but are not "consultants" to educational programs, as some may expect. The Board agreed by general consensus that it is the responsibility of an education program to seek assistance from other than the Board, as needed, to develop a program proposal.

### **Process of Surveys and Approvals**

L. Emrich distributed and explained a sample standard education program survey schedule. Staff is proposing to reduce a standard survey visit from three days to one or two days. L. Emrich pointed out that this change could decrease travel expenses, reduce staff time on site visits, and allow more time to focus on the education programs with potential problems. Following review of the schedule and suggestions from the Board, the Board agreed by general consensus to reduce the survey visits from three days to one or two days. Board members stated they believe it is important to continue to have an exit interview and tour the facilities. E. Buschmann encouraged Board members to accompany staff on a survey visit. It was also suggested that the Board discuss, in the future, charging fees for survey visits and new program proposals.

K. Driscoll stated that at the last Nursing Education Advisory Group meeting, the Advisory Group asked if programs recently had an accreditation site visit, was a site visit by the Board necessary?

### **Out-of-State Education Programs**

L. Emrich informed the Board that she received an inquiry regarding an out-of-state pre-licensure nursing school, approved in a border state, sending their students to clinical sites in Ohio. Section 4723.32 establishes exemptions to licensure in Ohio, but there is no exemption for this situation. The Board discussed revising the NPA to allow students who attend a nursing education program in another state that is approved by that state's nursing board, to

complete the clinical portion of their education at sites located in Ohio. The Board agreed by consensus and asked staff to pursue this statutory change. H. Fischer suggested expanding the nursing student exemption in Section 4723.32 to include the language “approved by an NCSBN recognized jurisdiction.” The Board agreed by general consensus to include the suggested language in the LSC draft in order to make this change as soon as possible.

L. Emrich informed the Board that another issue arose regarding approval of out-of-state education or training programs and whether the Board would have jurisdiction to approve an out-of-state program. L. Emrich also noted that the NPA has a provision under the fee section that the Board could charge \$2,000 for out-of-state survey visits, however, no out-of-state visits are currently necessary as there are no out of state education programs approved by the Board. After discussion regarding state jurisdiction and use of Ohio tax money, the Board agreed by general consensus that pre-licensure nursing programs must be located in Ohio for Board approval and that the Board would not approve out-of-state pre-licensure nursing education programs. L. Emrich also discussed a similar issue with Dialysis Training Programs. The Board suggested more information be gathered about the organization of the Dialysis Training Programs for further discussion.

### **NEGP Process**

The Board received documents regarding the Nurse Education Grant Program. S. Thacker reviewed the past review process and recommended having one review team per category. Following discussion and review, the Board agreed by general consensus to accept the new process. There were no changes to the RFP. C. Krueger asked for volunteers to work with staff to process, review and make recommendations to the Board regarding the grant proposals. She stated that J. Brachman volunteered prior to this meeting and the review process would occur from June 1-15. In addition, Board members K. Driscoll and P. Burns volunteered to review the proposals. T. Williams stated it was helpful having a non-nurse member be part of the team.

The Board reviewed the pre-licensure and post-licensure metrics and discussed the weighting. The Board agreed by general consensus to (1) adjust the scoring so the quantitative scoring would be weighted at 60% and the qualitative scoring at 40%; (2) add as a factor for review whether a program met its goal in the last grant cycle to increase students; and (3) identify another partner category.

### **AAG Kathy Bockbrader – Open Meetings Act**

AAG Kathy Bockbrader reviewed the Open Meetings Act, Revised Code Section 121.22, and answered questions of the Board. One change that may need to be discussed further is the use of ballots for election of officers. Currently, during the

open meeting, nominations are made, a ballot is prepared, Board members vote by ballot, and the vote is announced. However the AG's office is reviewing the use ballots and advising that this type of procedure may not be acceptable. The process may be discussed during the May Board meeting.

### **Strategic Plan**

The Board received the draft Strategic Plan for review and discussion. B. Houchen explained that the format was revised to identify Organizational Goals/Objectives that are based on the Strategic Initiatives. Outcome measures continue to be part of the plan and several outcomes were revised or newly created. Program managers reviewed the revised outcome measures and answered questions. The Strategic Plan is drafted as a two-year plan, with Board review annually, to allow time to accomplish the organizational goals and objectives. The Board stated that it was an ambitious plan even for two years. Following review and suggested revisions, the Board agreed by general consensus to accept the Strategic Plan as amended. It will be presented at the May Board meeting.

### **Dialysis: Hemodialysis and IV Therapy; Statutory Language**

The Board received a document entitled "Current or Pending State Law: Requirements for Certification of Dialysis Technicians." D. Broadnax began a review of the various state laws where some states do not certify dialysis technicians, but do approve training programs and mandate that nurses delegate only to individuals who have completed the training programs. Other states maintain a registry of unlicensed persons who perform dialysis at the delegation of nurses. Other states license facilities to perform dialysis only if the DTs have completed state approved training programs and/or have passed a national examination.

The Board discussed LPNs providing dialysis care for pediatric patients and Ohio law regulating IV therapy and LPNs. H. Fischer commented that the law does not clearly provide that IV therapy is dialysis, thus, the law does not clearly prohibit LPNs from performing dialysis on pediatric patients. J. McFee stated she believes that LPNs should be able to perform pediatric dialysis care with training. The Board discussed that it is appropriate for LPNs to perform the same work as Dialysis Technicians and Dialysis Technicians can provide dialysis care to pediatric patients, and the law does not explicitly prohibit LPNs from performing dialysis care to pediatric patients. However, while LPNs could provide this care in the dialysis center or unit, LPNs could not provide IV care to pediatric patients in other settings because this is prohibited by the IV therapy law. Staff will review and provide a written clarification for the Board to review.

The Board deferred the following items to the May 2007 Board meeting:  
TERCAP and patient safety, Ethics Training, and NEALP update.

**Adjournment**

The retreat adjourned at 4:10 p.m. on Tuesday April 17, 2007.

Cynthia Krueger, MSN, RN, President

Handwritten signature of Cynthia A. Krueger in cursive script.

Attest:

Handwritten signature of Betsy J. Houchen in cursive script.

Betsy Houchen, RN, MS, JD, Secretary