



OHIO BOARD OF NURSING

MINUTES OF MEETING

BOARD RETREAT – APRIL 18-19, 2018

The Ohio Board of Nursing Retreat was held on April 18-19, 2018 at the Drury Inn at 6170 Parkcenter Circle, Dublin.

On Wednesday, April 18, at 9:00 a.m., President Patricia Sharpnack called the meeting to order. On Thursday, April 19, at 9:00 a.m. President Patricia Sharpnack called the meeting to order.

BOARD MEMBERS

Patricia Sharpnack, RN, President
Brenda Boggs, LPN, Vice-President
Sandra Beidelschies, RN
Matthew Carle, Consumer Member
Barbara Douglas, RN, APRN-CRNA
Nancy Fellows, RN
Erin Keels, RN, APRN-CNP
Lisa Klenke, RN
Deborah Knueve, LPN
Lauralee Krabill, RN
Daniel Lehmann, LPN
Sandra Ranck, RN
Joanna Ridgeway, LPN

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 Patricia Sharpnack welcomed the attendees and guests. Vice-President Brenda Boggs read the Board mission each day.

COMPLIANCE PROGRAM

Timeline and History of Disciplinary Approaches

Lisa Ferguson-Ramos reviewed the timeline and background information about Board disciplinary approaches from the 1980s to present. Lisa Klenke added that several years ago the Board implemented the Just Culture analysis as part of the disciplinary review process. Sandra Ranck, Supervising Member for Disciplinary Members, noted that Just Culture analysis is routinely discussed in Case Review

in order to consider other factors that may contribute to nursing practice breakdown.

L. Ferguson-Ramos reviewed various reports and articles regarding disciplinary programs of other state boards of nursing. L. Klenke asked if there is an alignment with nursing associations and the state boards of nursing featured in the media reports. She stated that if there are close alignments she believes there is a possibility that a board's mission of public protection becomes blurred and the association and board can become more blended. Director Houchen stated that when attending national meetings, staff and Board members have noted this type of alignment in some states, but in Ohio, while the working relationship is positive and collaborative with the Ohio Nurses Association, both the association and Board are clear on their different roles.

L. Ferguson-Ramos noted that the Board is often asked to participate in NCSBN discipline panels and committees with states that have been viewed as models in best practices. Board members thanked staff for the information and timeline stating the background information was helpful.

Administrative Delays

Holly Fischer reviewed administrative delay factors in disciplinary cases such as subpoena responses, service issues, and settlement negotiations. She suggested that when Board members identify a case is delayed, they review the case for mitigating factors taken by licensee. Nancy Fellows stated that Board members do not see many delayed cases, and complimented staff.

L. Klenke stated that through the years Board staff have developed innovative solutions to streamline processes and expedite resolution of cases. For example, the Board Hearing Committee was established when the Board was experiencing delays in scheduling administrative hearings due to the limited number of AAGs assigned to the Board.

Survey of State Boards of Nursing

L. Ferguson-Ramos reviewed the results of a survey the Board distributed through NCSBN to other state boards of nursing requesting information about disciplinary policies and protocols. She noted the Arizona Board of Nursing established guidelines and has authority to develop a program for individuals who may not yet meet the diagnostic criteria of substance use disorder but have a history of substance misuse and may benefit from early intervention, education, drug testing, fewer practice restrictions, and a reduced time period in the program. L. Ferguson-Ramos noted that the Arizona program is also being extended to licensees with a psychiatric, psychological or behavioral health disorder. S. Ranck stated she believes the Board should consider including those with mental health disorders in the Alternative Program. Sandra Beidelchies agreed stating that in nursing practice she has observed that mental health and

substance use issues may be intertwined and can result in work performance issues.

L. Ferguson-Ramos answered questions regarding costs, types, and frequency of drug screening and noted that screening continues to be the best option for monitoring licensees. S. Ranck stated that she sees many licensees working several non-nursing jobs in order to pay for screens and other requirements. She believes it depends on the individual's motivation to return to nursing and their stage of addiction. President Sharpnack noted that although cost is often discussed, screening is the best means to monitor licensees, and for public protection it is the Board's responsibility to require screens.

Review of Work Processes

David Geiger reported that the Board has been working with Board investigators to review processes, streamline reporting, and focus on the timely resolution of cases and using LeanOhio/Six Sigma concepts to analyze work processes. He reviewed statistics and noted the average number of cases assigned and managed by investigators is 135, and the NCSBN recommendation is 50 cases. Erin Keels stated a concern about staff resources given the volume of work. Matthew Carle agreed and added that if the Board recommends changes to the eligibility for AP to include additional licensees, this would be responsive to the increased need for treatment due to the opioid epidemic, and additional staffing may be needed.

Compliance Protocols and Templates

L. Ferguson-Ramos reviewed the proposed revisions to the Disciplinary Complaint Protocol; Discipline Priorities and Guidelines Protocol; and Settlement Conference Protocol. The Board discussed and agreed by general consensus to include the following in the Disciplinary Complaint Protocol:

- Complaints based solely on a pre-employment or random employment screen that is positive for illegally obtained Marijuana, or other evidence of self-administration of illegally obtained Marijuana, absent evidence of impairment: Reprimand Consent Agreement and substance use disorder evaluation.
- Complaints based on for cause employment screen or other evidence of self-administration of illegally obtained Marijuana, with evidence of impairment: One (1) year probationary Consent Agreement with optional Temporary Practice Restrictions and Temporary Narcotic Restriction.

Sandra Ranck recommended that licensees who have been contacted regarding an investigation should receive a letter if the case is closed and no action is taken. Board members agreed and staff will incorporate this into the process.

L. Ferguson-Ramos reviewed a “template” designed to streamline legal drafting and reduce human error by using technology to automate the process of making revisions and modifications to Consent Agreements based on the individual licensee’s case.

Alternative Program for Chemical Dependency/Audit

L. Ferguson-Ramos provided an overview and the history of the Alternative Program for Chemical Dependency (AP). She discussed several issues:

- One of the eligibility requirements for AP, specified in Section 4723.35, ORC, is a diagnosis of chemical dependency, which limits participation in the program and impacts successful completion. The Board discussed the benefit of making AP available to licensees with substance use disorder (SUD), which includes substance abuse in addition to dependency. By encouraging entry into AP earlier in the disease progression, licensees may have a higher rate of successful treatment and completion. The Board agreed by general consensus to pursue a legislative amendment so that individuals diagnosed with SUD could be eligible for AP.
- The Board previously discussed and agreed that “SUD” terminology should be used in Section 4723.35, ORC rather than “chemical dependency.” The Board agreed by general consensus to include this in seeking a legislative amendment.
- Currently, the administrative rules preclude a licensee who is being prescribed a drug such as Suboxone for medication-assisted treatment (MAT) to enter AP because Suboxone is also considered a drug of abuse. The NCSBN Guidelines state that individuals on MAT may be eligible for AP. The Board discussed that several drugs, such as Methadone and Vivitrol are also used for MAT. The Board agreed by general consensus to revise the rules so that licensees who receive MAT would not be ineligible for AP.

Practice Intervention and Improvement Program Review/Audit

L. Ferguson-Ramos provided an overview of the Practice Intervention and Improvement Program.

Marijuana Update

Holly Fischer stated that over the last several years, the Board has reviewed the evolving status of Marijuana (MJ) legalization in the U.S., and how this may impact Board disciplinary approaches to a licensee’s use of the drug. She stated she is a member of the NCSBN Marijuana Regulatory Guidelines Committee and summarized some of the preliminary conclusions of the Committee. The Committee is expected to issue a final report later in 2018.

STRATEGIC PLAN

Director Houchen reviewed the proposed changes to the Strategic Plan. The Board agreed by general consensus to the changes.

LEGISLATIVE DISCUSSION

SB 332: Cultural Competency

Tom Dilling provided a report about the Board's work regarding cultural competency. SB 332 requires certain health professional licensing boards, including the Board of Nursing, to consider the problems of race and gender-based disparities in health care treatment decisions. T. Dilling reported that Director Houchen and he met with the Executive Director of the Commission on Minority Health, noting that the Director stated she believes nursing is in the forefront of addressing cultural competency issues. In May, T. Dilling will attend a legislative meeting about the status of implementing the requirements of SB 332. L. Klenke asked if the Ohio Department of Health requires reporting health care disparities, which she believes would provide helpful data for the state.

Legislative Report

T. Dilling presented the legislative report, highlighting HB 191, Certified Registered Nurse Anesthetists (CRNA); HB 501, Veterinary Nurse Title; HB 541, Volunteer Nursing Program; and SB 34, which allows for certain legal notifications to be made by means of a combination of ordinary mail and electronic mail. He also identified other proposed legislative changes relating to LPN IV nursing practice and the requirement that APRNs report collaborating physician changes within thirty days of the change.

ADMINISTRATIVE RULE REVIEW

Five-Year Review Rules

Holly Fischer reported that as part of the five-year review, the Board will discuss Chapters 4, Standards of Practice Relative to RN or LPN; Chapter 6, Alternative Program for Chemical Dependency/Substance Use Disorder Monitoring; Chapter 18, Practice Intervention and Improvement Program; and Chapter 20: Prevention of Disease Transmission. The Board will also consider revisions to individual rules that are not slated for five-year review, but are either required to be revised or recommended to be updated, due to recent legislative action, or rules that require technical changes.

Chapter 4: Standards of Practice Relative to RN or LPN

- Rule 4-01: Reference new APRN license and delete reference to COA.
- Rule 4-03(D)(4): Correct typo (insert "is" after "care").
- Rule 4-05: Reference new APRN license, delete reference to CTP and COA.
- Rule 4-06(B) and (C): Update cross-reference to 4723.03(E) (not C).
- Rule 4-06 (G): The Board agreed to add "take action to conceal."
- Rule 4-09(A): Delete sentence referring to Section 4723.55 as that code section was repealed.

Chapter 6: Alternative Program for Chemical Dependency/Substance Use Disorder Monitoring

- Rule 6-01(B): The Board discussed changing the name, “Joint Commission,” or adding language reflecting that other national accrediting bodies may be the accrediting body for hospitals in Ohio.
- Rule 6-02: The Board discussed and agreed to make changes regarding eligibility criteria to include applicants who are receiving MAT (see above discussion). Note that Section 4723.35, ORC, requires that participants have a “chemical dependency” defined as:
 - Chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user’s health, safety, or welfare or that of others; or
 - Use of a controlled substance, a harmful intoxicant, or a dangerous drug to the extent that the user becomes physically or psychologically dependent or the user endangers the user’s health, safety, or welfare or that of others.
- Rule 6-04(D): Change name to “national practitioner database”(changed in 2013).

Chapter 18: Practice Intervention and Improvement Program

- Rule 18-01(A), (D): Change references to reflect APRN license, delete references to certificate/COA.
- Rule 18-04(A)(6): Change references to reflect APRN license, delete certificate/COA.
- Rule 18-08(D)(2): Change references to reflect APRN license, delete certificate/COA.
- Rule 18-09(F): Change name to “national practitioner database”(changed in 2013).

Chapter 20: Prevention of Disease Transmission

H. Fischer noted it appears the rule as written continues to cover the basic points covered by CDC. See <https://www.cdc.gov/infectioncontrol/basics/standard-precautions.html>

- Rule 20-05(C): Delete “Ohio department of job and family services” and replace with “requirements established for independent providers by Ohio departments under Title 51 of the Revised Code.” Independent providers are certified by DODD (Chapter 5123) and Medicaid (Chapter 5160).
- Global change – When filing the rule “RFSA,” all the references to Section 4723.07(L) will be changed to 4723.07(K), ORC.
- Section 4723.07(K), ORC, continues to refer to “universal and standard precautions” as discussed when this chapter was reviewed in 2013. The Board agreed that this language should remain in the rules although the CDC refers only to “standard precautions.”

Technical Changes - Other Rules

- Rule 4723-1-03: Update form references, including adding alternative program application reference.
- Rule 4723-5-08(J): Technical correction changing “not less than seven business days” to “not more than seven business days.”
- Rule 4723-7-04, 7-05, 7-06: Make changes to update language related to foreign-educated endorsement applicants and delete obsolete language:
 - 7-04(B)(3): Delete requirement, as foreign-educated endorsement applicants have already been licensed by exam in another NCSBN member jurisdiction that presumably determined that individual’s educational preparation was substantially similar.
 - 7-05 (A)(1)(b), 7-06(A)(1)(b): Delete as there are no programs that are not NCSBN member jurisdiction programs, except foreign programs discussed in Rule 7-04.
- Rule 4723-7-10(B): Update to remove reference to “certificate of authority.”
- Rule 4723-8-11: The Board discussed updating this rule to reflect the more current “Consensus statement on concussion in sport – the 5th international conference on concussion in sport held in Berlin, October 2016.” However, one issue is that the medical clearance form that the Ohio Department of Health (ODH) requires (posted on its website and referenced in Rule 4723-8-11(B)(4)), still refers to the Zurich Guidelines; according to ODH, the Committee that approved the form would have to approve a new form, and the Committee’s statutory authority has expired. The form is an attachment to the Committee’s March 2015 final report. The final report indicates that providers treat and diagnose concussions in accordance with: “the most current Consensus Statement on Concussion in Sport) (currently the 4th International Conference on Concussion in Sport, held in Zurich, November 2012).” The law, Section 3707.521, ORC, requires that any rules adopted by the Board must be “equal to or stronger than the guidelines developed by the committee established by the director of health under a previous version of this section, and which met during 2014 and 2015.” The Board discussed options and agreed by general consensus to keep the rule as it is and review it again at the time of the rule’s five-year review (2020) to determine if at that time ODH obtained authority to update the form.
- Rule 4723-23-10(A)(5): Revise “twelve” months to “six” months. This change is proposed to address a recent change in the BONENT examination requirements. H. Fischer explained that this rule would be filed in June in order to have an effective date prior to the November Board meeting when the Board considers re-approval of dialysis technician testing organizations.

Chronic Pain Prescribing Rules

Holly Fischer reported on rules for prescribing for chronic and sub-acute pain. In a continuing effort to combat the Ohio opioid abuse and fatality crisis, the Governor’s Cabinet Opiate Action Team has convened licensing board

workgroups to implement significant changes in how opioids are prescribed. Last year, the Board adopted rules to address prescribing for acute pain. This year the Board will consider rules to address prescribing for chronic and sub-acute pain. Board staff have worked closely with the State Medical Board, Pharmacy Board, Dental Board, and the Ohio Department of Mental Health and Addiction Services to establish prescribing parameters.

Section 4723.481, ORC, requires that APRNs prescribe in a manner that does not exceed the authority of the collaborating physician or podiatrist, including requirements for chronic pain prescribing. See Medical Board Section 4731.052, ORC; Chapter 4731-21, OAC (these rules date back to 1998). In addition, *Ohio Guidelines for Prescribing Opioids for the Treatment of Chronic, Non-Terminal Pain 80 mg of Morphine Equivalent Daily Dose (MED) "Trigger Point"* have been in place since October 2013. Chronic pain is generally defined as pain that has persisted for longer than three months.

The proposed chronic pain rules will essentially implement rules to reflect the current Ohio Guidelines, with specific MED prescribing parameters at 50 MED, 80 MED, and 120 MED. These "trigger points" are based on OARRS data, and national data correlating adverse patient outcomes with dosage levels.

H. Fischer reviewed the most recent draft of the proposed Medical Board rules for chronic and sub-acute pain. The sub-acute and chronic pain treatment language is very similar, except primarily, the sub-acute pain rule does not require a written pain agreement or naloxone prescribing.

Board Rule 4723-9-10 is drafted to include cross-references to the new chronic and sub-acute pain prescribing parameters that will be required by the Medical Board rules and point the APRN prescriber to the "landmarks" included in Medical Board rules rather than to simply cross-reference the rules. All of the general APRN prescribing limitations related to controlled substances, and specifically opioids would continue to apply.

The Board members agreed with the language knowing it is subject to change, and asked that the Medical Board consider adding, either in rule or in guidelines, a time period within which the history and physical be completed prior to prescribing.

Medication-Assisted Treatment (MAT) Rules

H. Fischer noted that, as discussed at the March meeting, H.B. 49 (132nd GA) implemented Section 4723.51, ORC, which requires the Board to adopt rules establishing standards and procedures to be followed by APRNs:

[I]n the use of all drugs approved by the United States food and drug administration for use in medication-assisted treatment, including

controlled substances in schedule III, IV, or V. The rules shall address detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other topics selected by the board after considering best practices in medication-assisted treatment.

The board may apply the rules to all circumstances in which an advanced practice registered nurse prescribes drugs for use in medication-assisted treatment or limit the application of the rules to prescriptions for medication-assisted treatment issued for patients being treated in office-based practices or other practice types or locations specified by the board.

The law requires the rules “shall be consistent with rules adopted under sections 4730.55 and 4731.056 of the Revised Code” (Medical Board rules).

Board staff have been working since the fall of 2017 with the Medical Board and the Ohio Department of Mental Health and Addiction Services to develop rule language. H. Fischer reviewed the Medical Board’s current draft of the “treatment” portion of the proposed rule language for physicians and physician assistants. To date, the Medical Board has not drafted language for the “detoxification” portion of the rules.

The Board reviewed a preliminary draft of a new proposed Rule 4723-9-13, Medication-Assisted Treatment; Detoxification. The language closely tracks the Medical Board rules; there are no substantive differences in how the APRN would prescribe vs. the physician. The detoxification portion of the language will need to be completed. The Board agreed to the language concepts provided with the understanding that the Medical Board will be revising its proposed language, including adding language for detoxification.

H. Fischer indicated that on conjunction with the Advisory Committee on Advanced Practice Registered Nursing meeting on May 14, 2018, an interested party meeting is scheduled to receive feedback regarding chronic/sub-acute pain, MAT, and the dialysis rule change proposals.

ADVISORY GROUP AND APRN ADVISORY COMMITTEE REPORTS

The Board reviewed reports on the Committee on Prescriptive Governance, Advisory Group on Dialysis, Advisory Group on Nursing Education, Advisory Group on Continuing Education, and the Advisory Committee on Advanced Practice Registered Nursing (APRN Advisory Committee).

The APRN Advisory Committee has been discussing CNP acute and primary care practice. The issue was brought to the Board’s attention following receipt of questions and concerns that CNPs were practicing acute care without holding

national certification in acute care. The Board responded by publishing an article, "Certified Nurse Practitioners (CNPs) in Primary and Acute Care," citing relevant Ohio law in the fall 2016 issue of *Momentum*. Over the years, individuals and health care facilities periodically asked the Board about the national certification required for CNPs practicing primary or acute care in Ohio. Board responses, based on the Nurse Practice Act (NPA), were consistent with the interpretation of law reiterated in the 2016 *Momentum* article. The NPA provisions that were cited were enacted in 1996.

A Report was presented at the July 2017 Board meeting to provide information about the issue, related articles, other state information, and the national Consensus Model. The APRN Advisory Committee reviewed the Report in October 2017. The Board has also been holding discussions regarding CNP practice with OHA and OONE.

It is the Board's position, based on the NPA, that to practice acute care the CNP's graduate level education and national certification must be in acute care, and this position is consistent with the Consensus Model. Certain stakeholders agree but other stakeholders, including some members of the APRN Advisory Committee maintain that: (a) CNPs who are not nationally certified in acute care may engage in acute care practice, based on clinical experience obtained post-graduate through the course of employment/workplace training; and (b) the Board is not following the Consensus Model as they understand it. In a July 6, 2017 NCSBN letter to the Board: *"...it is the position of NCSBN that the Consensus Model specifies CNPs who are engaged in acute care practice are to hold national certification in acute care. NCSBN agrees with your Board's position."*

The fundamental question, should Ohio continue to follow the Consensus Model, was presented to the APRN Advisory Committee in order to determine the future direction of practice in Ohio. It was suggested that the APRN Advisory Committee attempt to work toward a shared understanding of the Consensus Model provisions and language, as a starting point. To date, through the APRN Advisory Committee discussions, there is no consensus and the Advisory Committee has not made a recommendation to the Board. The Advisory Committee meets on May 14, 2018, and Chair E. Keels requested Committee members bring recommendations to the meeting.

L. Klenke summarized that she believes the APRN Advisory Committee may be so polarized that they are not able to agree on a resolution or focus on the future. She stated that the Consensus Model did not consider that perhaps APRNs should have been prepared as generalists, which may have eliminated the limitations and confusion.

Review of Annual Report Questions

Lisa Emrich reported that Program Administrators of pre-license nursing education programs with Full, Provisional or Continued Conditional approval complete an Annual Report questionnaire. Board staff recommended additional questions to gather information regarding the use of high or moderate fidelity simulation to replace clinical experience for obstetrics and/or pediatrics. The Board agreed by general consensus to include these questions.

L. Emrich reported that Ohio Action Coalition recommended the addition of two questions: (a) ask if the program incorporated the Ohio Nurse Competency Model in its curriculum; and (b) request that the program provide the average salary or salary ranges for tenured and non-tenured faculty. President Sharpnack stated that education programs currently provide salary information to educational accrediting bodies and the information is available from those organizations. The Board agreed by general consensus to include the question about the Ohio Nurse Competency Model, but not request salary information.

ETHICS TRAINING

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

Completing the ethics course were Board Members Brenda Boggs, Sandra Beidelschies, Matthew Carle, Barbara Douglas, Nancy Fellows, Erin Keels, Lisa Klenke, Deborah Knueve, Lauralee Krabill, Daniel Lehmann, Sandra Ranck, Joanna Ridgeway, Patricia Sharpnack; and Board staff Betsy Houchen, Holly Fischer, Lisa Emrich, Lesleigh Robinson, Margo Pettis, and John Robinson.

COMPACT STATEMENT

Director Houchen provided background information about the compact licensure or the Nurse Licensure Compact (NLC) and provided an update on the enhanced Nurse Licensure Compact (eNLC). The Board discussed the advantages and disadvantages of being a compact state. Director Houchen noted that the Board reviews compact licensure and the Board Statement on Multi-State Nurse Licensure annually. The Board discussed the revised Compact statement and agreed by general consensus to adopt the revised Board Statement.

OTHER BUSINESS

Board Meeting Dates for 2020

The Board approved the following Board meeting dates for 2020: January 15-16, March 18-19, April 22-23, May 20-21, July 22-23, September 16-17, and November 18-19, 2020.

Hotel for 2019 Retreat

Board members agreed to return to the Drury Inn & Suites for the 2019 Board Retreat.

Motion

Action: It was moved by Patricia Sharpnack, seconded by Brenda Boggs, that the Board reinstate the licenses of Monica Williams, R.N., L.P.N., Case No. 17-000218, that were suspended September 14, 2017, by Notice of Automatic Suspension and Opportunity for Hearing issued on that date, because the Order upon which the Notice of Automatic Suspension was based was probationary and not a stayed suspension. Motion was adopted by a majority vote of the Board members with Sandra Ranck abstaining.

EVALUATION OF RETREAT AND ADJOURNMENT

Board members stated they thought the meeting was very informative with great discussions.

The meeting adjourned on Thursday, April 19, 2018 at 1:54 p.m.

Patricia A. Sharpnack, MSN, RN
President

Patricia A. Sharpnack MSN, RN.

Attest:

Betsy Houchen, RN, MS, JD
Executive Director

Betsy J. Houchen