



## OHIO BOARD OF NURSING

### MINUTES OF MEETING

#### **BOARD RETREAT – APRIL 17-18, 2019**

The Ohio Board of Nursing Retreat was held on April 17-18, 2019 at the Embassy Suites Columbus Airport, 2886 Airport Drive, Columbus, Ohio. The President, Vice-President, and Executive Director reviewed the agenda prior to the meeting.

On Wednesday, April 17, at 9:00 a.m., President Patricia Sharpnack called the meeting to order. On Thursday, April 18, 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 attendees. Vice-President Brenda Boggs read the Board mission each day.

#### **COMPLIANCE PROGRAM**

##### Disciplinary Approaches

Lisa Ferguson-Ramos presented an article, *An Opportunity to Update the Disciplinary and Licensure Reinstatement Processes*, which was the basis for a presentation at the 2018 NCSBN Discipline Conference by the General Counsel from the North Carolina Board of Nursing. The article encourages boards of

nursing to include violations and terms/conditions for reinstatement as part of voluntary surrender actions, as is the practice of this Board.

#### Disqualifying Criminal Offenses

L. Ferguson-Ramos reported that effective March 22, 2019, SB 255, requires boards, including the Board of Nursing, to respond to requests regarding whether a “criminal conviction disqualifies an individual from obtaining a license” within 30 days, and to post information on the Board’s website showing the criminal offense convictions that disqualify an individual from being licensed. The Board established an email account for disqualifying offense requests, and posted the document, “Disqualifying Offenses-Criminal History Fact Sheet” on the Board website.

Board members asked about individuals interested in nursing school receiving information. L. Ferguson-Ramos explained that the Board provides the Disqualifying Offenses-Criminal History Fact Sheet and refers the individual to the education program, because the education program determines if they will admit the individual.

#### Work Processes

L. Ferguson-Ramos provided an update on work processes as reviewed during past board Retreats. This year staff audited the database to identify possible modifications, streamlined processes for case routing, developed a special advisory letter template, implemented a timeframe to review cases, updated the subpoena template, and cross-trained staff. Sandra Ranck, Supervising Member, discussed case review and complimented the work of the Compliance Unit staff.

#### TERCAP and Patient Safety Initiative

Director Houchen discussed TERCAP and Patient Safety Initiative. TERCAP (Taxonomy of Error Root Cause Analysis of Practice-Responsibility) is an initiative of the National Council of State Boards of Nursing (NCSBN).

Director Houchen thanked Board Member Lisa Klenke who was instrumental in the Board incorporating Just Culture as part of the disciplinary process and the Patient Safety Initiative. She noted that the Board hosted a presentation on Just Culture several years ago and Board staff provided presentations at OhioHealth and Kettering Health Care, two institutions who indicated an interest in working more closely with the Board regarding the Patient Safety Initiative and Just Culture. L. Klenke discussed her interest in the Patient Safety Initiative, and that she strongly supports Just Culture. There was a discussion about patient safety and potential system issues in health care that contribute to practice breakdown.

Holly Fischer stated there have been requests to present to hospital systems about mandatory reporting. She discussed past presentations to promote patient safety and complaint reporting. Sandra Beidelschies stated that nurses often

believe if they file a complaint, the result will be that the nurses will automatically lose their licenses; they do not understand the discipline process. Board members supported providing presentations and using NCSBN resources, if possible.

## **Compliance Protocols and Templates**

### Compliance Protocols

L. Ferguson-Ramos reviewed the Disciplinary Complaint Protocol, Discipline Priorities and Guidelines Protocol, and the Settlement Conference Protocol. The Board agreed to revise the Disciplinary Complaint Protocol based on the medical marijuana discussion. (See the NCSBN Marijuana Guidelines section below for the proposed revision.)

### NCSBN Marijuana Guidelines

H. Fischer provided an update on the medical marijuana program in Ohio. She summarized the number and age groups of patients registered and the number of registered caregivers. Many of the patients are older adults, and chronic pain is the most frequent qualifying condition.

H. Fischer reviewed three scenarios from the NCSBN Guidelines in relation to the Disciplinary Complaint Protocol. Matthew Carle stated that the decision of the Board needs to be communicated to nurses in Ohio.

The Board agreed to the following revision to the Disciplinary Complaint Protocol which will be presented at the May Board meeting for adoption. It was noted that the changes apply solely to cases not involving impairment at work:

Complaints based solely on a pre-employment or random employment screen that is positive for non-medically recommended Marijuana, with no prior history of positive Marijuana screen: Advisory Letter.

Complaints based solely on a pre-employment or random employment screen that is positive for non-medically recommended Marijuana with prior history of positive Marijuana screen/Advisory Letter previously sent: Reprimand Consent Agreement and substance use disorder evaluation.

President Sharpnack discussed a document from the Institute for Healthcare Improvement, *Recover Hope Campaign Change the Narrative Pledge*, whose goal is to reduce the stigma and change the terminology used when discussing substance use disorder.

## **Non-Disciplinary Approaches**

L. Ferguson-Ramos reviewed the Alternative Program for Chemical Dependency/Substance Use Disorder (AP) and the Practice Intervention and Improvement Program (PIIP) for the Board audit. President Sharpnack

recommended publishing an article about the use of marijuana and the AP Program in a future issue of *Momentum*.

### **COMPACT STATEMENT**

Director Houchen reviewed historical information about the Compact licensure and the new eNLC, adopted by NCSBN in 2015. The Board agreed by general consensus to re-approve Board's statement on the Compact.

### **NCLEX TESTING**

Director Houchen provided background information regarding past Board considerations to limit the number of times an individual can take the NCLEX and establish a time limit as to when a first-time test taker must test after the completion of their education program. The Board does not limit the number of times an individual can take the NCLEX but does follow the NCLEX Retake Policy which states a person must wait 45-days before retaking the NCLEX. The Board agreed by general consensus not to limit the number of times an individual can take the test and not to establish a time limit as to when a first-time test taker must test after the completion of their education program.

### **LEGISLATIVE DISCUSSION**

At a prior Board meeting, the Board discussed having a statement regarding nurses practicing to the full extent of their licensed scope of practice. The Board reviewed the draft statement, "The Practice of Nursing and Scopes of Practice" and a copy of a NCSBN publication, "Changes in Healthcare Professions' Scope of Practice: Legislative Considerations." The Board agreed by general consensus to adopt the statement as presented.

Tom Dilling presented the legislative memorandum and gave an overview of legislative bills: SB 1, Reduce Regulatory Restrictions; HB 115, Regulator Restriction Reduction; SB 7, Temporary Licensing-Military; HB 133, Military-Temporary Licensure; and SB 61, Nurse Anesthetists.

### **APRN PRESCRIBING REGULATIONS**

L. Emrich provided a continuing education presentation on APRN prescribing. She reviewed APRN prescribing practices as authorized by Chapter 4723., ORC, and the administrative rules; reviewed the APRN Prescribing Rule Flow Chart based on Rule 4723-9-10, OAC; and applied Chapter 4723., ORC, and Chapter 4723-9, OAC, to specific APRN prescribing scenarios.

### **ADMINISTRATIVE RULE REVIEW**

Holly Fischer provided an overview of the administrative rules to be reviewed this year. As part of the five-year review, the Board will discuss Ohio Administrative Code Chapters 4723-2, Licensing for Active Duty Military and Veterans; Chapter 4723-16, Hearings; Chapter 4723-17, Intravenous Therapy Courses for Licensed

Practical Nurses; Chapter 4723-25, Nurse Education Grant Program; and Chapter 4723-26, Community Health Workers.

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 for technical reasons. H. Fischer reviewed the proposed revisions for the following rules.

#### Chapter 2: Licensing for Active Duty Military and Veterans

The Board agreed by general consensus to the following proposed revisions:

- Rule 2-01 (A)(3)(f), (g): Delete cross reference in (f) to Rule 4723-8-01, not necessary; delete (g), obsolete.
- Rule 2-03 (C): Delete cross reference to Rule 4723-8-01, not necessary.

#### Chapter 16: Hearings

H. Fischer discussed that certain State Medical Board rule language differs from the Nursing Board. The Board agreed to maintain the current requirements for hearings in Chapter 16.

The Board agreed by general consensus to the following proposed revisions:

- 16-07(B)(2): Change “chemical dependency” to “substance use disorder” (HB 119, 132<sup>nd</sup> GA).
- 16-08(A): Currently, the Board is required to issue subpoenas if the request is filed at least 30 days prior to the hearing. Feedback from hearing examiners is that they typically require subpoena requests to be filed at least 45 days prior to hearing because obtaining service become less likely with the 30-day timeframe. Staff recommends changing “thirty” to “forty-five.”
- 16-09(A): Add “solely” before procedural in line three (“relates solely to a procedural matter”). This change was requested by a Board hearing examiner for clarification.

#### Chapter 17: Intravenous Therapy Courses for Licensed Practical Nurses

The Board agreed by general consensus to the following proposed revisions:

- Rule 17-01(C): Change “client” to “patient” consistent with changes made throughout Chapter 4723, OAC over the past five years.
- Rule 17-01(G): Update cross reference (should be: paragraph (N) of Rule 4723-14-01).
- Rule 17-03(C)(3): Update cross reference (should be: Section 3721.01, ORC).
- Rule 17-06: In the “flush” (header) language, delete the reference to 4723.18(A)(4)(a), ORC, as that language was removed by HB 216 (131<sup>st</sup> GA). Staff is recommending re-writing to clarify that the minimum curriculum applies to continuing education referenced in

Section 4723.19, ORC, so the new language would read: “The minimum curriculum for a continuing education course in intravenous therapy required by section 4723.19 of the Revised Code for licensed practical nurses shall be a course that:” This is historically consistent with the Board’s understanding that Section 4723.19, ORC, applies to continuing education courses, and that the minimum curriculum applies to those courses of study (and not to pre-license education). At the end of the Rule, add as Statutory Authority Section 4723.19, ORC. L. Emrich noted that the Advisory Group on Continuing Education recommended that the 40-hour minimum be removed. The Board agreed by general consensus to strike the “minimum of forty hours” from the continuing education rule language.

- 17-07(A)(5): Staff noted the form needs to be uploaded online with year of effective date; and form needs to be referenced in Rule 4723-1-03 instead of here.
- 17-07(C): For endorsement applicants, delete the last sentence regarding the Board requiring completion of continuing education in IV therapy. While this is currently discretionary, since May 2018, the Board determined it was not necessary.

#### Chapter 25: Nurse Education Grant Program

The Board agreed by general consensus to the following proposed revisions:

- Rule 25-02(H)(2): Replace “Ohio board of regents” with “chancellor of higher education” to reflect current statutory terminology.
- Rule 25-02(L): Update cross reference to Rule 4723-5-01(CC) (not X).
- Rule 25-06(C): Staff noted the name of the form, with year effective, needs to be added to Rule 4723-1-03, and uploaded to the Board website forms page.
- Rule 25-07: Replace “Ohio board of regents” with “chancellor of higher education” to reflect current statutory terminology.
- Rule 25-09(A): Staff noted the name of the form, with year effective, needs to be added to Rule 4723-1-03, and uploaded to the Board website forms page.
- Rule 25-15(A)(2), (B): Staff noted the name of the form, with year effective, needs to be added to Rule 4723-1-03, and uploaded to the Board website forms page.

#### Chapter 26: Community Health Workers

The Board agreed by general consensus to the following proposed revisions:

- Rule 26-02(A)(1): Staff noted the name of the form, with year effective, needs to be added to Rule 4723-1-03, and uploaded to the Board website forms page.
- Rule 26-04(A), (B)(1), (H)(1): Staff noted the name of the form, with year effective, needs to be added to Rule 4723-1-03, and uploaded to the Board website forms page.

- Rule 26-12(A)(2)(b): Replace “Ohio board of regents” with “chancellor of higher education” to reflect current statutory terminology.
- Rule 26-24(A)(1), (B)(1): Staff noted the name of the form, with year effective, needs to be added to Rule 4723-1-03, and uploaded to the Board website forms page.

#### Technical Changes - Other Rules

The Board agreed by general consensus to the following proposed revisions:

- Rule 1-03: Update form references as noted above.
- Chapter 5: This Chapter is slated for 5-year review in 2021.
  - Rule 5-01: The Board discussed adding a new definition regarding program completion, and agreed it was not necessary.
  - Rule 5-04(B)(4): Delete this paragraph as it covers the same information as (B)(3), and is inconsistent with Section 4723.07(B)(7), ORC, which says “may” withdraw approval, not “shall.”
  - Rule 5-10(A) and 5-11(A): The Advisory Group on Nursing Education recommended changes to preceptor requirements:
    - Rule 5-10(A)(5)(b) and 5-11(A)(5)(b): Remove “for at least two years”.
- Rule 9-10: On March 21, 2019, the Medical Board filed proposed changes with the Ohio CSI office to revise its chronic / sub-acute pain rule language in response to public feedback. Changes include a new definition for “terminal” conditions, which are an exception to opioid prescribing parameters, and adding oncologists and hematologists as prescribers authorized to exceed the 120 MED for established patients. The Nursing Board would revise Rule 9-10 accordingly.
- Rule 9-12: The OSBP may be rescinding its Rule 4729-37-02 and refiling the rule in a different division; if this occurs, the Board can consider whether to revise cross-references in Rule 9-12.
- Rule 9-13: This is the new MAT rule, effective February 1, 2019. Three groups of changes are to be considered:
  - *Add references to Certified Nurse Midwives.* Effective October 24, 2018, the “Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act” (H.R. 6), was signed into law amending 21 U.S.C. § 823 to expanding the definition of “qualified other practitioners” for purposes of buprenorphine prescribing for MAT. In addition to nurse practitioners (whose eligibility was

made permanent), clinical nurse specialists, certified registered nurse anesthetists, and certified nurse midwives were added (for a period of five years). While CRNAs cannot prescribe in Ohio, Rule 4723-9-13 could be revised to specifically reference CNMs. To date, SAMHSA has not updated its website materials to include CNMs in the DATA waiver program, but it is anticipated that this will occur. There is a statement from ACNM supporting the expansion to CNM prescribing. In addition, OAAPN submitted a request on January 24, 2019, asking that CNMs be included in the rule.

Rule 4723-9-13 (and the Formulary) require that prescribing be in accordance with federal law, so should CNM authority be terminated by the federal government, it would not be permitted under Ohio law.

- *Detoxification.* H.B. 49 (132<sup>nd</sup> GA) implemented Section 4723.51, ORC, requiring that the Board adopt rules for MAT that address both treatment and detoxification. It also required that the Board adopt rule language consistent with language adopted by the Medical Board. The Nursing Board began working with the Medical Board in late fall, 2017 to draft rule language. Staff reviewed the most recent Medical Board draft and submitted comments on March 29. The Medical Board's Policy Committee will review the most recent draft on May 8, 2019. Other minor changes may be needed, e.g., in paragraph (A)(10), update reference to current link for OSBP MED calculator.
- *Medical Board MAT Rules – Treatment.* The Medical Board held a public rule hearing on November 28, 2018 on its proposed MAT – Treatment rules. However, it pulled the rules based on public comments; on February 15, 2019, it refiled the rules and on March 4, JCARR completed its hearing. As of the date of the Retreat, the rules have not been final filed but are anticipated to be shortly. The earliest effective date would be between April 21 and April 30. The Board reviewed a summary of the revisions and the final version of the language. The Board would consider revising 4723-9-13 consistent with these changes.
- 4723-20-01, 20-03, 20-07: These three rules were reviewed in five-year review last year and submitted as “no change” rules. LSC advised the Board on October 22, 2018, that even if the rules had no changes, in order to update a paragraph reference in the statutory authority (which is not part of the rule itself but is

included in filing materials), the rules would need to be re-filed. Rather than do this, we opted to make the correction later. The statutory reference is “4723.07(K)” due to a law change (not “L”). The Board would submit as “4723.07” and eliminate the subparagraph completely.

## **ADVISORY GROUP/COMMITTEE REPORTS**

The Board reviewed reports on the Advisory Group and Committee reports.

### Advisory Group on Dialysis

The Board was successful in seeking an amendment to the Nurse Practice Act to change the twelve months of experience to six, revising the administrative rules, and adding the Certified Clinical Hemodialysis Technician (CCHT) examination, offered by the Nephrology Nursing Certification Commission (NNCO), as a third national test option.

### Advisory Group on Nursing Education

The Advisory Group recommended to revise Rules 4723-5-10 and 4723-5-11, OAC, to eliminate the minimum two years of nursing practice experience for preceptors. The Board will proceed with this rule revision in 2019.

### Committee on Prescriptive Governance (CPG)

Because the Exclusionary Formulary excludes only drugs prohibited by law, the CPG meetings are brief and the Committee primarily reviews lists of new FDA approved drugs. The CPG has not added any new FDA approved drugs to the Exclusionary Formulary, as originally adopted in May 2017.

### Advisory Group on Continuing Education

The Advisory Group discussed institutions of higher learning granting academic credit in “competency units” rather than “credit hours;” recommended no revisions for Rule 4723-26-05, OAC, continuing education for Community Health Workers; and recommended deletion of the 40-hour minimum requirement for the LPN IV therapy continuing education course.

### Advisory Committee on Advanced Practice Registered Nursing

The Advisory Committee continued discussion regarding national certification in acute care. Advisory Committee members do not believe that additional administrative rules regulating APRN practice are not needed but requested a guidance document to assist CNPs understand the patient conditions which may be managed based on their national certification. The Committee members also agreed to use of the CMS definition of critical care to assist CNP understanding. A guidance document in the form of an Interpretive Guideline (IG) was presented to the Advisory Committee at the last meeting.

Lisa Klenke acknowledged the outstanding work of Chair Erin Keels in bringing the group together on common ground. E. Keels believes more work is needed from employers and education programs.

Director Houchen reported that she and L. Emrich attended the NCSBN APRN Consensus Model meeting where many state boards of nursing identified numerous areas of the Consensus Model for NCSBN review.

Board members suggested providing updates about Advisory Groups and Committees in *Momentum* and also having information on the Board website.

### **STRATEGIC PLAN**

Director Houchen reviewed the status and proposed objectives and outcome measures for the 2019-2020 Strategic Plan.

Board members discussed distribution of the Board's quarterly publication, *Momentum*. The Board sends notification through eNews and social media to inform licensees of each issue being available. Interested parties may request that the publisher email or mail a hardcopy of *Momentum* to them. It was suggested that the Board place information on the website about requesting to obtain *Momentum* from the publisher.

### **ETHICS TRAINING**

Board members and staff participated in the Ohio Ethics Commission online e-course, *The Ohio Ethics Law – Good Government in Action*. Those in attendance fulfilled the Governor's Ethics Law training requirement, in accordance with Executive Order 2019-11D.

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 Holly Fischer, Betsy Houchen, Margo Pettis, John Robinson, Richard Schwab, Joel Whetstone, and Lisa Emrich.

### **BOARD GOVERNANCE**

#### **Board Appointment for CPG**

**Action:** It was moved by Patricia Sharpnack, seconded by Barbara Douglas, that the Board appoint Sheri Sievers, DNP, APRN-CNP, nominated by the Ohio Association of Advanced Practice Nurses, to the Committee on Prescriptive Governance, for a two-year term, effective May 1, 2019. Motion was adopted by unanimous vote of the Board Members.

**Preparation time for Board Meetings**

Betsy reviewed Board Policy B-10, Board Member Compensation and Reimbursement. In consideration of the number of hours needed to prepare for Board meetings and the fiscal implications, it was recommended that the hours be increased to 25. Board members agreed, and a motion will be placed on the May Board meeting agenda.

It was noted that the Ohio Constitution prohibits an increase in compensation of public officers during an existing term. Thus, if a public body, such as the Board, wants to implement a change in compensation, it can do so, but the change cannot become effective for Board members during their existing terms; the modification would take effect when a new term begins. A new or re-appointment is considered a new term.

**Nurse Education Grant Program (NEGP) – New Funding Cycle**

Lisa Emrich stated the 2019-2021 NEGP grant cycle will begin September 1, 2019 and asked for Board member volunteers to review proposals. Lauralee Krabill, Sandra Ranck and Patricia Sharpnack volunteered to review the individual applications and score the proposals for the three award categories. The Board will award the NEGP grants at the July 2019 Board meeting.

**Hotel for 2020 Retreat**

Board members agreed to return to the Embassy Suites Columbus Airport for the 2020 Board Retreat.

**Kudos!**

The Board congratulated Lisa Klenke, CEO at Mercer Health, for being named Celina-Mercer County Chamber of Commerce 2018 Citizen of the Year at the chamber's annual banquet on February 21, 2019. Director Houchen shared kudos for Pam Morse, Board Investigator; and for Susan Orahoad, AP Monitoring Agent, who retired in September.

President Sharpnack also extended a kudos to Margo Pettis, the Board Executive Assistant, for her assistance and hard work.

**Approval of Board Policy**

A revision of Board Policy B-09, was proposed because the statute does not address what would occur in the absence of the Chair of an Advisory Group or Committee.

**Action:** It was moved by Patricia Sharpnack, seconded by the Barbara Douglas, that the Board approve Board Policy B-09, Advisory Groups, Board Ad Hoc Committees, and Standing Committees, as submitted with the

proposed revisions. Motion adopted by unanimous vote of the Board members.

**EVALUATION OF RETREAT AND ADJOURNMENT**

Lisa Klenke stated she appreciated the Retreat content and materials. Board members stated the meeting proceeded well and the discussions were productive.

The meeting adjourned on Thursday, April 18, 2019 at 1:15 p.m.

Patricia A. Sharpnack, MSN, RN  
President



Attest:

Betsy Houchen, RN, MS, JD  
Executive Director

