

ALABAMA BOARD OF NURSING

REGULAR BOARD MEETING

Fiscal Year 2009-2010

Suite 326, RSA Plaza

770 Washington Ave

Montgomery, Alabama

February 18, 2010

I. CALL TO ORDER

A. Roll Call

The meeting was called to order at 9:03 a.m. on February 18, 2010. The following Board members were present: Pamela Autrey, PhD., MSN, RN, President; Sylvia Nobles, MSN, CRNP, Vice-President; Sharon Pugh, LPN, Secretary; Melissa Bullard, LPN; Monica Cauley, MSN, RN; Maggie Lee Hopkins, LPN; Gregory Howard, LPN; Lynda F. LaRue, RN, ADN, CMTE; Martha G. Lavender, RN, DSN; Amy Price, MSN, RN; Gregory D. Pugliese, JD; and E. Laura Wright, MNA, CRNA. Genell Lee, MSN, RN, JD, Executive Officer and Leslie Vinson, Executive Secretary/Recorder were present. Staff members attending portions of the meeting were: Mary Ed Davis, MSN, RN, Voluntary Disciplinary Alternative Program; Katie Drake-Speer, MSN, RN, Education; Carolyn Morgan, MSN, RN, Practice/Continuing Education; Cathy Boden, MSN, RN, Legal Nurse Consultant; LaDonna Patton, MSN, RN, Legal Nurse Consultant; and Alice Maples Henley, Deputy Attorney General/General Counsel.

B. Declaration of Quorum

A quorum was declared with twelve Board members present.

C. Statement of Compliance with Open Meetings Act

Prior notice of this meeting was posted on the Secretary of State's web site in accordance with the Alabama Open Meetings Act.

D. Review of Agenda

1. Additions, Modifications, Reordering

2. Adoption of Agenda

On February 18, Ms. Price moved that the Board approve the Agenda. Ms. Pugh seconded. Motion carried without objection.

II. EDUCATION

A. Excelsior College: Study and Comments

Ms. Drake-Speer reported the Board receives numerous calls from potential students and graduates of Excelsior College regarding the educational requirements for licensure as a registered professional nurse in Alabama. The ABN Administrative Code, Rule 610-X-3-.02(9) specifies that the curriculum of nursing education provide theoretical and clinical experiences specific to the expected scope of practice of graduates from each type of entry-level nursing education program and provide theory and clinical learning experiences in the areas of adult, maternal-child, and psychiatric/mental health nursing. The two-day clinical testing done by Excelsior College does not meet this requirement.

Applicants for licensure by exam or endorsement who do not have the theoretical content and clinical learning experiences as required are not eligible for licensure. The Executive Officer reviews these applicants individually.

Excelsior mailed studies conducted and a white paper on clinical education in pre-licensure associate degree in nursing programs to state boards of nursing. One study concludes that mentors who responded to Excelsior's survey rated Excelsior College graduates as slightly better prepared for the workforce than traditionally educated graduates. However, when you look at the survey information, 336 surveys were mailed and only seven were useable. These studies and the white paper were briefly discussed during one of the NCSBN education conference calls.

Ms. Lee reported that the Board previously said the Executive Officer could consider LPN work experience as meeting the clinical requirements.

Ms. Drake-Speer provided copies of the Excelsior College Final Evaluation Report; Clinical Education in Pre-licensure Associate Degree in Nursing Programs Report; As Well Prepared, and Often Better: Surveying the Work Performance of Excelsior College

Associate Degree in Nursing Graduates Report; NCSBNs Critique of Excelsior's White Paper; and Arizona Board of Nursing's comments for the Board's information and review.

Ms. Lee reported that the Board needs to think about at home/online nursing programs because the education rules are due to be reviewed this year. The two nursing programs in Alabama are having problems setting up clinicals for online programs because they are trying to set up the clinicals where the student lives so the student does not have to travel.

The Board reviewed and discussed the information provided.

B. Nursing Education Annual Report Elements

Ms. Drake-Speer reported that the nursing education annual report is utilized as a review for compliance with standards in ABN Administrative Code, Chapter 610-X-3, Nursing Education Programs, and to collect data. For the academic year 2008 – 2009 Annual Report of Nursing Programs, the Board reviewed the data elements at its August 2009 meeting. The data elements for the Annual Report of Nursing Programs for academic year 2008 – 2009 were approved at the Board's September 2009 meeting. The report was available to nursing programs online October 2009 with a completion deadline of November 20, 2009. The Board's at its January 2010 meeting discussed the annual report results. The Board requested a review of the data elements for the 2009 – 2010 academic year.

Ms. Drake-Speer provided copies of the proposed data elements for the Board's review.

The Board reviewed the proposed data elements and made changes.

III. ADVANCED PRACTICE AND PRACTICE

A. Collaborative Practice Applications

Ms. Cotton reported that the roster includes twenty applications for collaborative practice which meet the following criteria: 1) collaborative practice; 2) prescriptive privileges for standard formulary; 3) covering physicians; 4) no remote practice sites; 5) standard CRNP protocol with no additional duties; or 6) physician applicants who have met all ABME qualifications.

Applications for remote site practice, additional skills and/or restricted drugs will be presented to the Joint Committee in March 2010.

Ms. Cotton reported that one application has been added the roster.

Ms. Cotton provided copies of the roster of applications and the addendum for the Board's review and approval.

On February 18, Mr. Howard moved that the Board approve the applicants for collaborative practice as listed in the published roster and the addendum. Dr. Lavender seconded. Motion carried without objection.

Ms. Nobles was not present for the discussion or vote.

IV. POLICY

A. Amendment, ABN Administrative Code, Rule 610-X-7-.04(1)

Ms. Lee reported that the Board enacted new ABN Administrative Code, Chapter 610-X-7, Standards of Nursing Practice-Specific Settings in 2009. The new chapter became effective December 28, 2009. During the course of responding to questions, staff discovered that one of the references back to Chapter 610-X-6, Standards of Nursing Practice, stated the wrong subsection.

Subsection (1) states, "The registered nurse may function as a surgical first assistant according to standardized procedures as defined in Rule 610-X-6-~~05~~12. The registered nurse first assistant has the duty to verify that standardized procedures are in effect before performing the functions of a surgical first assistant." The standardized procedure rule was moved to .12 from .05 in Chapter 6 and the reference back to the standardized procedure rule should be 610-X-6-12.

Ms. Lee provided copies of ABN Administrative Code, Rule 610-X-7-.04 for the Board's review and approval.

On February 18, Ms. Price moved that the Board approve amendment to ABN Administrative Code, Rule 610-X-7-.04, Registered Nurse First Assistant to correct the reference error. Ms. Pugh seconded. Motion carried without objection.

Ms. Nobles was not present for the discussion or vote.

V. NATIONAL COUNCIL OF STATE BOARDS OF NURSING

A. Alternative to Discipline Program Research

Ms. Davis reported that during 2009, the National Council of State Boards of Nursing (NCSBN) conducted a survey of alternative to discipline (ATD) programs to determine how these programs currently operate regarding nurses with substance use disorders. The NCSBN's goal is to develop a model substance abuse disorder monitoring program and recommended guidelines to "promote uniformity in rules/regulations regarding regulation of nurses with current and/or recent substance abuse histories".

Ms. Davis provided a copy of the NCSBN Survey Report and a summary of the results of the survey for the Board's information and review.

The Board reviewed and discussed the survey results.

Ms. Lee reported that the Voluntary Disciplinary Alternative Program (VDAP) rules will be reviewed at the March Board meeting and asked that the Board think about how the number of months employed in nursing should be calculated, i.e. hours, days, etc.

Ms. Nobles was not present for the discussion.

B. Board of Directors Report: Dr. Autrey

Dr. Autrey reported that she did not attend the Board of Directors meeting due to the weather.

Ms. Nobles was not present.

VI. EXECUTIVE OFFICER

A. Revised Organizational Chart

Ms. Lee reported that while the daily operations of the Board are managed by the Executive Officer, the organizational structure is approved by the Board. The last organizational structure was revised in May 2009. Since May 2009, there have been a few changes. For example, Randolph P. Reaves, outside Board counsel, resigned from his contract with the Board for health reasons. In addition, the changes in staff with reduction of services

and elimination of Center for Nursing activities requires revision to the organizational chart.

Ms. Lee provided copies of the May 2009 organizational chart and the proposed organizational chart for the Board's review and approval.

The Board reviewed the proposed organizational chart.

On February 18, Ms. Pugh moved that the Board approved the revised organization structure. Mr. Howard seconded. Motion carried without objection.

Ms. Nobles was not present for the discussion or vote.

B. Attorney I/II Position

Ms. Lee reported that in the early days of the Board of Nursing, an attorney was assigned by the Attorney General's office to represent the Board. Approximately fourteen years ago, the Board hired a full-time in-house attorney at an Attorney IV level. Gail Hampton served as the Board's attorney, both as an assignment from the Attorney General's office and subsequently as an employee of the Board. When Ms. Hampton retired in May 2005, another attorney was hired from the personnel register in March 2005. Ms. Hampton continued to work part-time as a deputy attorney general in conjunction with the full-time attorney. The full-time attorney transferred to the Department of Transportation in an employment agreement as of December 1, 2007. Ms. Hampton's services were terminated as of November 30, 2007. Alice Maples Henley was hired as a Deputy Attorney General on January 16, 2008.

Ms. Henley serves as General Counsel to the Board as well as the prosecuting attorney for discipline cases. The number of complaints received by the Board increased each year for the last few years.

A full-time attorney is needed to assist Ms. Henley and share the workload of discipline cases. The Addiction Determination Physician position is vacant and based on experience, that position will not be needed at any time in the near or long range future. The fiscal impact is based on eliminating the Addiction Determination Physician position and obtaining an Attorney I/II position.

If the Board approves the request, a request will be submitted to

the Finance Director for approval and then it would go to State Personnel. The last time the Board added a position, it took approximately six months to go through the process.

Ms. Lee provided copies of the number of complaints, per fiscal year from 2001 to January 22, 2010; and the Form 40 for the Board's information and review.

The Board reviewed and discussed the information provided.

On February 18, Ms. Price moved that the Board approve an Attorney I/II position for the Board of Nursing. Mr. Howard seconded. Motion carried without objection.

Ms. Nobles was not present for the discussion or vote.

C. Legislative Update

Ms. Lee reported that the 2010 Regular Legislative Session started January 12, 2010. Two specific bills being monitored by staff are Senate Bill (SB) 234 and House Bill (HB) 398. Both bills are graduate nursing scholarships.

Another bill being monitored is SB 152 sponsored by Senator Larry Dixon. The bill would require state agencies to provide certified copies of public records within five (5) days of the request. A meeting with representatives of the Alabama Press Association as well as state agency representatives (Personnel, Veterans Affairs, Finance, Department of Human Resources, Education, Department of Public Health and ABN) met Tuesday, January 26, 2010 to discuss the bill. The state agencies requested 15 days and the Press Association said they could not support more than five days. The state agencies said they could not support five days. The Press Association planned to take the information back to Senator Dixon.

Senate Bill 154, also sponsored by Senator Dixon, would require Sunset Audits every six years rather than the current four years. The Examiners of Public Accounts currently reviews the Board of Nursing, for example, every four years and provides a report to the Joint Legislative Sunset Committee. The increase to six years would not be detrimental to the Board. SB 154 came out of the Committee with a favorable report.

There are two bills, one in the House (HB 132) and one in the Senate (SB 119), requiring professional licensing boards to assure that licenses are not issued or renewed unless the individual is

physically present in the United States and a legal alien. The Alabama Association of Regulatory Boards is opposed because of the difficulty in actually proving the individual's legal status.

Representative Mike Millican, Chair of the Health Committee in the House of Representatives, filed HB 173. The proposed law provides for a "Ventilator Patient's Bill of Rights" and has requirements for nurses involved in ventilator disconnection from patients.

Ms. Lee reported that there are two or three bills related to lay midwives and the Nurse Practitioner Alliance of Alabama hopes to get their bill introduced this week.

Ms. Lee provided copies of SB 234, HB 173, and instructions on how to track legislation for the Board's information and review.

The Board reviewed and discussed the information provided.

Ms. Nobles was not present for the discussion.

D. Checkbook Agency Cost-Benefit Analysis

Ms. Lee reported that the anticipated transfer of \$2.5 million from the ABN Trust Fund to the General Fund in FY 2010 led the Board to consider becoming a checkbook agency. The Board discussed the pros and cons of becoming a checkbook agency and requested more analysis. Currently, the Board's revenue is deposited into Wachovia and through the state treasurer's office. The money is "allocated" by the State Treasurer to the Alabama Board of Nursing Trust Fund. The interest earned on the money stays with the state treasury and is not included in the Board's Trust Fund.

Because the ABN uses the state treasury, staff uses the comptroller's office to cut the checks to pay vendors, Board members and staff payroll, and any other expenses that require a check. Inter-agency transfers are also entered into the state's financial system. The state's financial systems are antiquated as are the state's personnel computer systems. The systems are mainframe based and are over twenty years old. Thus, Ms. Weaver has to keep accounting information in the state system as well as in Excel because the level of detail in the Board's financial reports is not available in the state system.

Ms. Weaver contacted those agencies that are considered check

book agencies to determine what they do differently than Board staff.

The state has an infrastructure in place to deal with payroll, purchasing, accounting (receivable and payable), personnel, and insurance. To recreate that infrastructure would be costly both in terms of actual dollars as well as unknown costs. Since the consideration was to go in that direction due to the anticipated transfer of \$2.5 million from the Board of Nursing Trust Fund to the State's General Fund, it is not really a way to solve that challenge.

Ms. Lee provided copies of the checkbook agency research for the Board's information and review.

The Board reviewed and discussed the costs and the benefits of becoming a checkbook agency.

E. Update on Licensing Management System

Ms. Lee reported that the Board approved an agreement with the University of Alabama in May 2009 for the development and implementation of a new licensing management system. The staff from Cyberbest have been on-site since May and developed the requirements for the system. All the Board staff have participated in the development and testing of the new system.

From the end of January through the first two weeks of February, all staff were involved in User Acceptance Testing. This is the first phase of looking at what has been developed. More changes will occur as the testing continues. Regular meetings to review the status of the new system and the work being developed continue. The loss of the project manager last year, Tim Wyatt (untimely death in November 2009), had the potential to set us back in the development but the remainder of the Cyberbest staff picked up and are not behind in the project timeline.

Cyberbest is looking at the development of the Board's online applications as well. Bringing the online applications in house and using a payment engine developed by someone else is likely to be the best way for us to maintain the integrity of our online processes.

Ms. Lee showed a prototype of the system and the Cyberbest staff were available to answer questions.

VII. OPEN FORUM

A. Tammy Hankins, LPN

Ms. Hankins failed to attend the Open Forum.

B. Prescription Addiction

Ms. Lee showed a video on prescription addiction.

VIII. APPLICATION FOR REHEARING

A. Jessica Nadine Glover, 1-115642

Ms. Lee reported that she filed a Motion for Rehearing on behalf of the Board. The Hearing Officer recommended that Ms. Glover be placed on probation for a period of sixty months, with chemical dependency stipulations. Ms. Glover had one positive pre-employment drug screen. There is no evidence of chemical dependency.

Ms. Lee provided copies of the Motion for Rehearing, the Hearing Officer's Recommendation, the formal hearing transcripts and exhibit's for the Board's review.

The Board reviewed and discussed the information provided.

On February 18, Ms. Nobles moved that the Board stay the January 22, 2010, Board Order. Ms. Hopkins seconded. Motion carried without objection.

On February 18, Ms. Nobles moved that the Board accept the Findings of Fact, Conclusions of Law, and amend the Hearing Officer's Recommendation to be consistent with similar cases, and place Ms. Glover's RN license on probation for a period of twelve months, with illegal/illicit drug-use stipulations, require her to complete a Board-approved course on chemical dependency and pay a fine in the amount of \$300.00. Ms. Price seconded. Motion carried without objection.

IX. OTHER

- Dr. Autrey welcomed the students from Southern Union State Community College and Alabama Southern Community College.

X. BOARD MEETING DEBRIEFING

XI. ADJOURNMENT

The meeting adjourned at 3:03 p.m. on February 18, 2010.

Pamela Autrey, President

Sharon Pugh, Secretary

Submitted by: _____
Leslie Vinson, Recorder
2/18/2010