

# ALABAMA BOARD OF NURSING

## REGULAR BOARD MEETING

Fiscal Year 2008-2009

Suite 326, RSA Plaza

770 Washington Ave

Montgomery, Alabama

June 18, 2009

### I. CALL TO ORDER

#### A. Roll Call

The meeting was called to order at 9:00 a.m. on June 18, 2009. The following Board members were present: Mike Harper, CRNA, JD, President; Debra Davis, DSN, RN, Vice-President; Gregory Howard, LPN, Secretary; Pamela Autrey, PhD., MSN, RN; Harry Brown, Jr., MA, MBA, CFP®; Melissa Bullard, LPN; Maggie Lee Hopkins, LPN; Patricia LeCroy, MSN, RN; Rose Linsky, MSN, RN; Sylvia Nobles, MSN, CRNP; and Sharon Pugh, LPN. Genell Lee, MSN, RN, JD, Executive Officer and Leslie Vinson, Executive Secretary/Recorder were present. Staff members attending portions of the meeting were: Allison Terry, Ph.D., RN, Director, Center for Nursing; Charlene Cotton, MSN, RN, Advanced Practice Consultant; Mary Ed Davis, MSN, RN, Voluntary Disciplinary Alternative Program; Katie Drake-Speer, MSN, RN, Continuing Education; Carolyn Morgan, MSN, RN, Practice; Carol Smith, Administrative Support Assistant; Cathy Boden, MSN, RN, Legal Nurse Consultant; Moniaree Jones, MSN, RN, Legal Nurse Consultant; and Alice Maples, Deputy Attorney General/General Counsel.

#### B. Declaration of Quorum

A quorum was declared with eleven Board members present. Amy Price, MSN, RN, arrived at 9:27 a.m.

#### C. Review of Agenda

1. Additions, Modifications, Reordering
2. Adoption of Agenda

**On June 18, Mr. Howard moved that the Board adopt the Agenda, as amended. Mr. Brown seconded. Motion carried.**

## II. POLICY

### A. Amendment, ABN Administrative Code, Rule 610-X-4-.07, Licensure by Endorsement

Ms. Lee reported that the newly promulgated continuing education (CE) chapter went into effect March 30, 2009. The Board eliminated the distinction between independent study and attended CE. The current rules for licensure by endorsement specify that only twelve hours of independent study can be used for CE. The amendment is necessary to delete the reference to independent study.

The proposed rules were filed with the Alabama Legislative Reference Service and published in the April 30, 2009 *Alabama Administrative Monthly*. The rules were also published on the Board's web site and sent via electronic mail to various nursing organization. The deadline for public comment was June 4, 2009. No comments were received.

Ms. Lee provided copies of the amendments for the Board's review and approval.

**On June 18, Ms. LeCroy moved that the Board approve, as final certification, amendment to ABN Administrative Code, Rule 610-X-4-.07, Licensure by Endorsement. Mr. Howard seconded. Motion carried.**

### B. Amendment, ABN Administrative Code, Rule 610-X-4-.08, Renewal of License

Ms. Lee reported that the newly promulgated continuing education (CE) chapter went into effect March 30, 2009. The Board eliminated the distinction between independent study and attended CE. The current rules for license renewal specify that only twelve hours of independent study can be used for CE. The amendment is necessary to delete the reference to independent study.

The proposed rules were filed with the Alabama Legislative Reference Service and published in the April 30, 2009 *Alabama Administrative Monthly*. The rules were also published on the Board's web site and sent via electronic mail to various nursing organization. The deadline for public comment was June 4, 2009. No comments were received.

Ms. Lee provided copies of the proposed amendments for the

Board's review and approval.

**On June 18, Ms. Nobles moved that the Board approve, as final certification, amendment to ABN Administrative Code, Rule 610-X-4-.08, Renewal of License. Ms. Hopkins seconded. Motion carried.**

C. Amendment, ABN Administrative Code, Rule 610-X-4-.10, Reinstatement of Lapsed License

Ms. Lee reported that the newly promulgated continuing education (CE) chapter went into effect March 30, 2009. The Board eliminated the distinction between independent study and attended CE. The current rules for reinstatement of a lapsed license specify that only twelve hours of independent study can be used for CE. The amendment is necessary to delete the reference to independent study.

The proposed rules were filed with the Alabama Legislative Reference Service and published in the April 30, 2009 *Alabama Administrative Monthly*. The rules were also published on the Board's web site and sent via electronic mail to various nursing organization. The deadline for public comment was June 4, 2009. No comments were received.

Ms. Lee provided copies of the proposed amendments for the Board's review and approval.

**On June 18, Ms. Nobles moved that the Board approve, as final certification, amendment to ABN Administrative Code, Rule 610-X-4-.10, Reinstatement of Lapsed License. Mr. Howard seconded. Motion carried.**

D. New Chapter, ABN Administrative Code, Chapter 610-X-6, Standards of Nursing Practice

Ms. Lee reported that the Board reviews regulations every three years with periodic changes as dictated by practice. The last changes were made to the chapter in 2007. The proposed changes will provide clarification and a more user-friendly language for licensees and providers.

The proposed changes relate to: 1) addition of definitions to Chapter 610-X-6 related to practice; 2) provision of clarification of practice issues; 3) addition of sections on assessment, documentation, medication administration and wound care

reflecting the more frequently asked questions and reasons for disciplinary action; 4) separation of practice in specific settings to another chapter for clarification; and 5) additions of the declaratory rulings.

Ms. Lee provided copies of the proposed changes for the Board's review.

The Board reviewed the proposed rules and made changes.

**On June 18, Ms. Linsky moved that the Board approve sending the proposed rule changes to interested parties for comment. Ms. Nobles seconded. Motion carried.**

E. New Chapter, ABN Administrative Code, Chapter 610-X-7, Standards of Nursing Practice: Specific Settings

Ms. Lee reported that the Board reviews regulations every three years. With the addition of the section on practice in residential community mental health settings, the number of specific settings increased to four: Registered Nurse First Assistant (RNFA); Sexual Assault Nurse Examiner (SANE); School Nurses; and Alabama Department of Mental Health Residential Community Programs. Board staff propose that moving the specific settings to a separate chapter will provide clarity and greater ease of location. The proposed changes relate to: 1) use Chapter 610-X-7 for specific settings; 2) inclusion of definitions to specific settings of practice; 3) provision of clarification of practice issues; and 4) inclusion of declaratory ruling for school nurses relating to over the counter medications.

Ms. Lee provided copies of the proposed rules for the Board's information and review.

The Board reviewed and discussed the proposed changes.

**On June 18, Dr. Davis moved that the Board approve sending the proposed rule changes to interested parties for comment. Ms. Nobles seconded. Motion carried.**

III. **ADVANCED PRACTICE: COLLABORATIVE PRACTICE APPLICATIONS**

Ms. Cotton reported that the roster includes application for collaborative practice which meet the following criteria: collaborative practice; prescriptive privileges without additional restricted drugs; covering

physician(s); no remote practice sites; standard CRNP protocol with no additional duties; and physician applicants who have met all of the Board of Medical Examiners qualifications.

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

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

**On June 18, Ms. Nobles moved that the Board approve the CRNP applicants for collaborative practice as listed in the published roster. Ms. Linsky seconded. Motion carried.**

#### IV. GRADUATE SCHOLARSHIP GUIDELINES

Ms. Weaver reported that the Education Trust Fund (ETF) budget passed by the legislature for Fiscal Year 2010 contains an appropriation to the Board for \$257,000.00 for scholarship funding. The statement in the appropriation is that "The above appropriation shall be expended pursuant to the provisions of the **Code of Alabama 1975**, Sections 34-21-60 through 34-21-63. Notwithstanding the limiting provisions of the **Code of Alabama 1975**, Sections 34-21-60 through 34-21-63, \$200,000 of the above appropriation shall be expended exclusively for scholarships for advanced degrees to train instructors to teach nursing classes in Alabama colleges and universities." Applications were posted on the Board's web site on June 2, 2009 and all nursing programs were notified via email about the availability of funds.

The Board received \$257,000.00 for scholarships in the FY 2009 budget. The Board made the determination of the criteria for the scholarships for educators. For FY 2009, the Board allocated a maximum of \$5,000.00 per scholarship for 40 scholarships. Staff has only had to go to a second alternate so far, as one of the recipients and the first alternate did not complete 6 hours for two consecutive semesters, although that was clearly stated in the requirements, instructions and scholarship agreement.

The process is that the staff (nurse consultants, finance staff and volunteers) will review the applications and bring recommendations to the Board in September.

There are two scholarship funds: (a) Post-baccalaureate: 15 scholarships at \$3,800.00 each; (b) Teaching in Alabama colleges or schools of nursing: 40 scholarships at \$5,000.00 each

The staff propose the following qualifications: (a) must have been a resident of Alabama for a period of at least one year immediately preceding application with two proofs of residency; (b) must have an active unencumbered Alabama registered nurse license; (c) must have been admitted to an accredited program seeking an advanced degree enabling the candidate to train instructors to teach nursing classes in Alabama colleges and universities, applicants may attend programs outside the state, if professionally accredited (nursing education scholarship); or for post-baccalaureate, must have been admitted to an accredited program seeking an advanced degree in nursing; (d) must hold or substantially meet the requirements for a baccalaureate degree in nursing from an accredited school of nursing; an official transcript or certification from the registrar stating requirements were met is required; (e) must agree to teach nursing full-time in an Alabama college or university for at least one year immediately after graduation or must agree to practice in Alabama for at least one year immediately following graduation; (f) must be a person of good character; and (g) must submit a completed application with all required documentation on or before July 31, 2009.

The staff propose the following scholarship conditions: (a) must teach nursing full-time in an Alabama college or university for at least one year immediately following completion of the graduate program or must practice in Alabama for at least one year immediately following completion of the graduate program in nursing; (b) must attend school for at least six (6) hours for two consecutive semesters and funds must be disbursed prior to October 1, 2010; (c) must sign a promissory note and an agreement to fulfill obligations; and (d) must keep the Board informed of the status of the above conditions and must immediately inform the Board of the failure to comply with the conditions.

The staff propose the following priorities of selection: (a) students at Alabama schools seeking a doctorate in nursing; (b) students at Alabama schools seeking a doctorate in a health-related field; (c) students at Alabama schools seeking a masters in nursing; (d) students at Alabama schools seeking a masters in a health-related field; and (e) students at schools outside Alabama seeking any of the above enumerated degrees.

The Board reviewed and discussed the qualifications for applicants, scholarship conditions, and priorities of selection.

**On June 18, Dr. Davis moved that the Board approve the scholarship funding formula, qualifications for applicants, scholarship conditions, and priorities of selection. Ms. Linsky seconded. Motion carried.**

## V. TEMPORARY PERMITS AND PENDING DISCIPLINE

Ms. Lee reported that the Board is authorized to issue temporary permits by statute. An application and an official transcript are required in order for the ABN to license a new graduate by temporary permit. A notarized copy of an active license in another jurisdiction and an application for licensure by endorsement is required in order to issue a temporary permit.

The staff practice has been to issue temporary permits immediately only if the applicant answers "No" to the regulatory questions. Applicants with a history of chemical dependency are routed to Mary Ed Davis for consideration as a possible Voluntary Disciplinary Alternative Program (VDAP) participant. If the individual is eligible for VDAP, a temporary permit may be issued at the time the agreement is signed (a license is required to be in VDAP). Applicants with a criminal history can be problematic. If the applicant has a recent felony conviction (within five (5) years), a temporary permit is not issued. There are two categories of applicants with criminal histories or other "Yes" answers to regulatory questions that need to be addressed: Consent Orders and Formal Hearings.

If the applicant requests a temporary permit and goes to a formal hearing for a "Yes" answer (including criminal history) resolution, the temporary permit is not issued until the Order is presented to the Board for approval.

In the past, the temporary permit has not been addressed in Consent Orders at all. The applicant has until the Board meeting to decide whether to proceed with approval of the Consent Order by the Board or to withdraw the Consent Order and proceed with an administrative hearing.

Ms. Lee asked the Board for direction on issuing temporary permits to applicants with "yes" answers to the regulatory questions.

**On June 18, Dr. Davis moved that temporary permits be issued to examination and endorsement applicants who sign Consent Orders for a Public Reprimand and fine prior to the Consent Order be approved by the Board, since they do not pose a threat to the public. Mr. Howard seconded. Motion carried.**

## VI. BOARD TRAVEL

A. AACN Summer Seminar: Practicing Reality-Based Leadership in Challenging Times, Sante Fe, New Mexico – July 19-22, 2009

No Board members requested to attend.

VII. PROPOSED BOARD ROOM LAYOUT

Ms. Lee reported that the additional space leased on the third floor of the RSA Plaza led to conversations with the RSA staff regarding a new Board room. The present space in Suite 326 is insufficient when large numbers of visitors attend.

Ms. Lee provided copies of two schemes for the Board's review.

Brent Spears, RSA, and representatives from Goodwyn, Mills and Cawood, Inc. presented two schemes for the Board to consider.

The Board reviewed and discussed the floor plans.

After discussion, the Board chose Scheme 1 with the entrance doors from Scheme 2.

VIII. ALTERNATE DELEGATE FOR NCSBN ANNUAL MEETING

Ms. Lee reported that at the May 21, 2009 meeting, the Board elected Dr. Pam Autrey and Ms. Sharon Pugh as delegates to the National Council of State Boards of Nursing, Inc. (NCSBN) Annual Meeting in Philadelphia, Pennsylvania in August 2009. Alternate delegates were Maggie Hopkins and Sylvia Nobles. Ms. Nobles is not able to attend the meeting. The next person in line as an alternate delegate was Ms. Rose Linsky but Ms. Linsky is unable to attend the annual meeting. The other two Board members approved to attend the meeting were Amy Price and Melissa Bullard.

**On June 18, Ms. LeCroy moved that the Board elect Ms. Price as an alternate delegate. Ms. Nobles seconded. Motion carried.**

IX. BOARD OF MEDICAL EXAMINERS OPINION

Ms. Lee reported that at the May 21, 2009 Board meeting, an agenda item was the Board of Medical Examiner (BME) opinions that appeared to address nursing practice. The opinions on the Board of Medical Examiner's web site were changed following the BME May meeting. Ms.

Lee is scheduled to meet with the Credentials Committee of the BME on June 23, 2009 to discuss the various opinions.

Ms. Lee requested direction from the Board regarding discussions with the Credentials Committee.

The Board directed Ms. Lee to inform the BME that they failed to consider key stakeholders throughout the state; they need to consider that there are many different roles of nursing. The physician dictation is based on the information that the nurse collects. Dictation is a technical task and the opinions posted on the BME web site have disrupted established relationships within the community.

#### X. FY 2010 BUDGET

Ms. Lee reported that the 2010 General Fund budget passed by the Governor includes a \$2,500,000 transfer from the Board of Nursing Trust Fund to the State General Fund. This is LPN renewal and a low revenue year. By the end of FY 2010, the Board will be pressed to make payroll for the first three months.

Ms. Lee provided copies of estimated revenues and expenditures by quarter for FY 2010 and the first quarter of FY 2011, and the part of the State General Fund that pertains to the ABN for the Board's information and review.

The Board discussed raising fees and other options. The Board asked Ms. Lee to put together talking points for Board members to contact their representatives.

After discussion, the Board directed Ms. Lee to review the budget for possible program cuts before considering raising fees.

#### XI. APPLICATION FOR REHEARING

Ms. Lee reported that Brian Ethridge Smith signed a Consent Order that was approved by the Board at the May 2009 Board meeting. Mr. Smith also signed a Waiver of Rights at the time he signed the Consent Order. Mr. Smith has hired an attorney and has filed an Application for Rehearing.

Ms. Lee provided copies of the Consent Order that was approved by the Board and the Application for Rehearing for the Board's information and review.

The Board reviewed and discussed the information provided.

**On June 18, Ms. LeCroy moved that the Board deny the Application for Rehearing. Ms. Hopkins seconded. Motion carried.**

XII. OTHER

- Ms. Lee introduced Robert Rollins, IT Systems Specialist.
- Ms. Lee reported that the Commission of Graduates of Foreign Nursing Schools (CGFNS) will be at the NCSBN Annual Meeting and has invited two people to attend.

XIII. BOARD MEETING DEBRIEFING

XIV. ADJOURNMENT

The meeting adjourned at 3:14 p.m. on June 18, 2009.

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Michael D. Harper, President

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Gregory Howard, Secretary

Recorder: Leslie Vinson  
06/18/2009