

BOARD OF NURSING
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by Section 92-7(b), Hawaii Revised Statutes ("HRS").

Date: Thursday, May 3, 2018

Time: 8:30 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Members Present: Glenda Tali, PhD., MS, APRN, Chair
Thomas Joslyn, MS, CRNA, Vice Chair
Karen Boyer, RN, MS, FNP
Katharyn Daub, MS, RN, EdD
Jomel Duldulao, Public Member
Olivia Kim, LPN, RN, BSN
Judy Kodama, MS, RN, MBA, CNML.
Tammie, Napoleon, DNP, APRN

Staff Present: Lee Ann Teshima, Executive Officer ("EO")
Shari Wong, Deputy Attorney General ("DAG")
Faith Nishimura, Secretary

Guests: John Hassler, RICO Supervising Attorney
Marc Nakamura, RICO Staff Attorney
Stacia Silva, RICO Staff Attorney
Eric A. Irwin, RICO Staff Attorney
Ivy Kim, RICO Staff Attorney
Janine Udui, RICO Staff Attorney
Penny Morrisan
Laura Reichhardt, Director, Hawaii State Center for Nursing
Howard Luke, Attorney
Cheese dela Cruz
Amy Thomas, HPU

Call to Order: The Chair called the meeting to order at 8:30 a.m. at which time quorum was established.

Chair's Report: **Announcements/Introductions**

The Chair asked the audience to introduce themselves.

Approval of the Previous Minutes –April 5, 2018

The Chair called for a motion in regard to the minutes of the April 5, 2018 meeting.

There being no discussion or amendments, upon a motion by the Vice Chair, seconded by Ms. Daub, it was voted on and unanimously carried to approve the minutes of the April 5, 2018 meeting as circulated.

Vice Chair's Report: No report.

Executive Officer's Report: **Conferences/Seminars/Meetings**

The EO reported on the following conferences:

2018 NCSBN APRN Roundtable, April 10, 2018, Rosemont, Illinois

Dr. Napoleon reported on her attendance. She stated that this one-day event was focused on diagnosing. A study was conducted that indicated that practitioners was 80% correct when diagnosing a patient. The study also indicated that the "newer" practitioners were more likely to be more accurate than a practitioner who has been practicing for a while and they attributed that to complacency. One of the ways to address this concern that was recommended was to have practitioner focus on using the RN to gather the patient's medical history/information. She stated that a speaker from Australia encouraged the need to "collaborate" among the practitioner and nurse to make a more accurate diagnosis.

2018 NCSBN IT/Operations Conference, May 15-16, 2018, Albuquerque, New Mexico

The DAG will be attending this conference at which time she will be meeting with the Nursys staff to review and possibly approve the Nursys agreement. She also stated that a test was conducted either yesterday or today so she will let the DAG know the outcome of the test prior to her departure for the conference.

2018 NCSBN Discipline Case Management Conference, June 7-8, 2018, Denver, Colorado – RICO Staff Attorney will be attending.

2018 NCSBN Annual Meeting, August 15-17, Minneapolis, Minnesota

The Chair, Vice Chair, and Ms. Kim will be attending.

2018 NCSBN NCLEX Conference, September 24, 2018, Charlotte, North Carolina
Ms. Boyer will be attending

2018 International Nurse Regulator Symposium, October 22-23, 2018, Chicago, Illinois

The EO stated that she will be attending because it is scheduled right before the Scientific Symposium but she also wanted a nurse educator to attend if possible and have asked Dr. Napoleon to see if she is able to attend.

2018 NCSBN Scientific Symposium, October 24, 2018, Chicago, Illinois

The EO will be attending.

2018 Legislature

The EO reported on the status of the following bills:

SB 2298, SD1, HD2 Relating to Healthcare Preceptor Tax Credits - Allows advanced practice registered nurses, physicians, dentists, psychologists, pharmacists, and social workers to receive tax credits for acting as preceptors in volunteer-based supervised clinical training rotations provided to eligible students that enable the students to obtain an eligible healthcare professional degree or certificate. Establishes the Preceptor Credit Assurance Committee to issue certificates to volunteer preceptors upon verifying that the volunteer preceptors meet the requirements of the tax credit. (HD2))

This bill went to conference. The Conference Committee CD1 includes following amendments:

- (1) Reverting to the S.D. 2 version, which:
 - (A) Provides to healthcare professionals who volunteer as preceptors for advanced practice registered nursing students, medical students, and pharmacy students a tax credit of \$1,000 per rotation, up to a maximum of \$5,000 per taxable year, with an annual aggregate tax credit cap of \$2,000,000;
 - (B) Creates a Preceptor Credit Assurance Committee within the Department of Health to implement the tax credit program and certify the tax credit; and
 - (C) Requires the Department of Health to evaluate the efficacy of the tax credit and submit a report to the Legislature no later than June 30, 2024; and
- (2) Further amending this measure by:
 - (A) Deleting the requirement that eligible students be residents of Hawaii and deleting the definition of "resident of Hawaii";
 - (B) Amending the definition of "primary care"; and
 - (B) Decreasing the annual aggregate amount of tax credits that may be certified in a taxable year to \$1,500,000.

HB 1906, HD2, SD2 Relating to Health Care Workers – Makes intentionally or knowingly causing bodily injury to a health care worker a Class C felony. Effective 7/1/2035. (SD1)
This bill went to conference. The Conference Committee CD1 includes the following amendments;

- (1) Deleting its purpose section;
- (2) Amending the definition of "a person who is engaged in the performance of duty at a health care facility" to:
 - (A) Include additional persons who provide patient or health care services; and
 - (B) Exclude administrators, students, volunteers, and any other workers who support the functions of the health care facility;
- (3) Include intentionally or knowingly causing bodily injury to a person providing case management services through a mutual benefit society in a hospital, practitioner's office, or individual's home as an act subject to the offense of assault in the second degree;
- (4) Changing its effective date to upon its approval

HB 2375, HD1, SD1, Relating to Temporary Disability Insurance – Permits advanced practice registered nurses to certify an employee's disability. Increases the penalty an employer is assessed for failing to submit timely wage and employment information. Permits filing of an appeal of a decision related to temporary disability insurance at the various offices of the Department of Labor and Industrial Relations throughout the State. Allows the department to send notices of hearing electronically or by first-class mail. Clarifies that when the notice of hearing cannot be delivered to a party in the appeal, the notice may be given by online posting on the department's webpage. Allows the parties to a hearing to appear in person, via telephone, or by other communication devices. (SD1)

The House agreed with the Senate amendments and the bill was transmitted to Governor for approval.

SB 2774, SD1, HD1 - Relating to Insurance - Updates various areas of the State's insurance laws to: adopt the NAIC's Corporate Governance Annual Disclosure Model Act beginning on 1/1/2020; allow the Department of Commerce and Consumer Affairs and the Insurance Commissioner to determine whether a request to add or change a trade name or assumed name satisfies certain requirements; clarify certain provider reimbursement requirements; adopt revisions to the Insurance Holding Company System Regulatory Act beginning on 1/1/2020; provide the Insurance Commissioner with additional regulatory authority to supervise or liquidate a captive insurer; enable the Insurance Division to create stopgap measures, until 12/31/2020, to implement the Network Adequacy Model Act; and make various housekeeping amendments to clarify existing language and avoid ambiguities. (HD1)

The EO apologized that she did not have a status report on this bill and will follow-up at the June meeting.

SB 2407, SD1, HD1 – Relating to Medical Cannabis - Establishes the Medical Cannabis Study Group to examine the legal issues regarding Hawaii's medical use of cannabis law. (HD1)

This bill went to conference. The Conference Committee CD1 includes the following amendments;

- (1) Reverting to the S.D. 1 version, which amends the definition of "debilitating medical condition", as used in the medical use of cannabis law, to include opioid use disorders, substance use disorders, and withdrawal symptoms resulting from the treatment of those conditions; and
- (2) Making it effective upon approval.

HB 2729, HD2, SB 2718, HD2, SD2 Relating to Cannabis for Medical Use – Part I: Establishes a reciprocity process for medical cannabis patients that requires the Department of Health to register qualifying out-of-state patients and caregivers of qualifying out-of-state patients under certain conditions. Clarifies certain safeguards for qualifying out-of-state patients and caregivers of qualifying out-of-state patients. Authorizes the Department of Health to extend the maximum period of validity of any written certification to three years for debilitating medical conditions that are chronic. Clarifies a dispensary licensee's ability to retest, at its own expense, batches of cannabis or manufactured cannabis products that do not meet the Department of Health's standards for patient safety. Prohibits an employer from suspending, discharging, or discriminating against an employee for testing positive for cannabis if the employee is a registered qualifying patient who is authorized for the medical use of cannabis, with certain exceptions. Part II: Authorizes a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. Part III: Authorizes and regulates the manufacturing of edible cannabis products as manufactured cannabis products by licensed medical cannabis dispensaries. Establishes requirements for manufacturing, handling, labeling, and packaging of manufactured cannabis products. Adds certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed. Increases the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products. Part IV: Specifies certain felonies and conditions that will preclude employment, and other felonies and conditions that may preclude employment, at a medical cannabis dispensary. Effective 7/1/2050. (HB2729 SD2)

This bill went to conference. The Conference Committee CD1 includes the following amendments;

- (1) Deleting provisions relating to employment protections for registered qualifying patients;
- (2) Authorizing the registration of two caregivers for minor qualifying out-of-state patients;
- (3) Clarifying that a qualifying out-of-state patient shall not possess more than four ounces of usable cannabis at any given time and shall not possess live plants;
- (4) Deleting provisions authorizing licensed dispensaries to dispense edible cannabis products;
- (5) Clarifying requirements for devices that aerosolize cannabis and devices for safe pulmonary administration that may be dispensed by licensed dispensaries;

- (6) Establishing an Outstanding Issues Working Group to consider and make recommendations on issues related to the employment of registered qualifying patients and the manufacture and distribution by licensed dispensaries of edible cannabis products;
- (7) Changing its effective date to July 1, 2018

HB 2739, HD1 Relating to Health –Establishes a regulated process under which an adult resident of the State with a medically confirmed terminal disease and less than six months to live may choose to obtain a prescription for medication to end the patient's life. Imposes criminal sanctions for tampering with a patient's request for a prescription or coercing a patient to request a prescription. (HB2739 HD1)

This bill was signed into law, Act 2, SLH 2018

The EO also mentioned SB 2646, SD1, HD3, CD1 Relating to Prescription Drugs that requires prescribers of certain controlled substances to consult the State's Electronic Prescription Accountability System before issuing a prescription for the controlled substance, under certain circumstances. Provides that a violation by a prescriber shall not be subject to criminal penalty provisions but that a violation may be grounds for professional discipline.

This bill went to conference. The Conference Committee CD1 included the following amendments:

- (1) Broadening the requirement under which prescribers of controlled substances must consult with the PDMP by having the requirement applicable to all prescriptions for controlled substances, other than prescriptions of three days or less that are made in an emergency situation;
- (2) Deleting the appropriation to the Department of Public Safety to improve the PDMP;
- (3) Inserting an effective date of July 1, 2018.

Amendments to Title 16, Chapter 89 – Status Report

The EO reported that the amendments approved by the Board at the April meeting was sent to our office services so that a final draft can be sent to the Governor for approval to hold a public hearing.

Nursys – Status Report

The EO previously reported that the test was done yesterday or today and that she will report back to the Board at the June meeting.

Continuing Competency

Discussion on Continuing Education Courses ("CE") Approved by Another Board of Nursing –

The EO stated that at the last meeting the Vice Chair asked that the Board discuss the possibility of accepting continuing education courses approved by another Board of Nursing ("BON") if the other BON included a review process.

The Vice Chair stated that he attempted to contact some of the BONs on the west coast and the Florida BON but could not reach anyone. He said that he did see an application for CE approval on the California BON web page that included a \$300 application fee, but could not get any more information.

The EO stated that she would try to see if NCSBN has information on how or if other states approve or evaluate CE courses.

At this time the Chair announced that she was taking the agenda out of order.

Chapter 91, HRS Adjudicatory Matters:

At 9:03 a.m., the Chair called for a recess of the meeting, taking this agenda item out of order, to discuss and deliberate on the following adjudicatory matters:

In the Matter of the License to Practice Nursing of **Oddrun Farestad, RNS 2016-47-L**, Transmittal Memorandum Filed on April 16, 2018, Petitioner's Exceptions to the Hearing Officer's Recommended Order, and Request for Oral Argument, Exhibits "1"- "2"; Certificate of Service, Board's Order Rescinding It's April 5, 2018 Decision, Transmittal Memorandum Filed on April 16, 2018, Notice of Opportunity to Present Oral Arguments

The Board heard oral arguments from Mr. Nakamura, RICO Staff Attorney.

Upon a motion by the Vice Chair, seconded by Ms. Kodama, it was voted on and unanimously carried to rescind the Board's April 5, 2018 and to issue a Proposed Board's Final Order.

In the Matter of the License to Practice Nursing of **Jason T. Mendenguarin; RNS 2016-36-L** Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order

Upon a motion by Dr. Napoleon, seconded by Ms. Kodama, it was voted on and unanimously carried to approve the Board's Final Order.

In the Matter of the License to Practice Nursing of **Marsena M. Enos; RNS 2017-73-L** Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order; Exhibit "A"

Upon a motion by Dr. Napoleon, seconded by Ms. Kodama, it was voted on and unanimously carried to approve the Board's Final Order.

In the Matter of the License to Practice Nursing of **Cheese B. Dela Cruz, RNS 2013-34-L**, Respondent's Request for Reconsideration

The Board heard oral testimony from Respondent Ms. Dela Cruz (nka Ms. Lazo), Mr. Luke, Attorney for Respondent and Ms. Silva, RICO Staff Attorney.

Upon a motion by Ms. Kodama, seconded by Ms. Boyer, it was voted on with the Vice Chair, Ms. Daub, Dr. Napoleon, Ms. Boyer, Ms. Kodama and Mr. Duldulao voting yes and the Chair and Ms. Kim voting no to the following:

The RN license for Ms. Dela Cruz (nka Ms. Lazo) shall be disciplined as follows:

1. Five (5) year suspension of which three (3) years of the suspension is stayed;
2. During the suspension period, respondent shall completed continuing education courses, at her own expense and as specified by the Board;
3. Pay \$1,000 fine within ninety (90) days of the Board's Final Order;
4. Upon completion of the suspension period, respondent may apply for reinstatement of her license at which time the following may be imposed:
 - Respondent shall notify all nursing employers of her conditional license and have the employer/supervisor/DON sign the acknowledgement;
 - That the Respondent's nursing employer/supervisor/DON shall be required to submit quarterly reports of respondent's performance as a nurse providing direct patient care and shall immediately report any incidents directly to the Board; and
 - Respondent shall NOT work as a case manager
5. Failure to timely comply with any of the sanctions indicated above, upon an affidavit by RICO or the EO, respondent's Hawaii RN license shall be automatically revoked.

In the Matter of the Application for Nursing License of **Amy N. Richbourg, RNS LIC-2015-5**, Order of Dismissal

The Board acknowledged receipt of the Order of Dismissal.

Following the Board's review, deliberation, and decision in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Board was reconvening its scheduled meeting at 11:12 a.m.

Executive Session:

At 11:12 a.m., upon a motion by the Vice Chair, seconded by Ms. Kodama, it was voted on and unanimously carried to move into Executive Session in accordance with HRS, 92-5(a) (1) and (4), "To consider and evaluate personal information relating to individuals applying for nurse licensure;" and "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities".

At 11:31 a.m. upon a motion by Ms. Boyer, seconded by the Vice Chair, it was voted on and unanimously carried to move out of executive session.

Correspondence: **NCSBN**

Legislative Updates

The following legislative updates were disseminated to the Board members for their information: 4/6/18; 4/13/18 and 4/20/18.

Scope of Practice

Can RN Remove an Epidural Catheter?

The Board discussed an email inquiry from Terry Toba, Director of Nursing, Surgical Services for Maui Health System asking whether or not it is in the scope of practice for an RN to remove an epidural catheter.

After some discussion, it was the consensus of the Board that an RN who has received the appropriate education and training and demonstrated competency to perform such a task and using reasonable judgement in carrying out the prescribed medical orders of a dentist, physician, osteopathic physician, podiatrist, APRN or physician assistant with physician supervision, may remove an epidural catheter.

In accordance with HAR §16-201-90, the above interpretation is for informational and explanatory purposes only and based solely on the information provided. It is not an official opinion or decision and therefore not binding upon the Board.

Hawaii State
Center for Nursing:

No report.

Applications:

Licensed Practical Nurses

Ratification List

Upon a motion by the Chair, seconded by Ms. Daub, it was voted on and unanimously carried to ratify the attached list of LPNs – 19140 - 19167 (27)

LPN Applicants

Upon a motion by the Vice Chair, seconded by Ms. Kim, it was voted on and unanimously carried to approve the following application with conditions:

Jessica Sims

Upon a motion by the Vice Chair, seconded by Dr. Napoleon, it was voted on and unanimously carried to approve the following applicant:

Roseline Pierre Jonka (exam)

Registered Nurses

Ratification List

Upon a motion by the Chair, seconded by the Vice Chair, it was voted on and unanimously carried to ratify the attached list of RNs – 89156 - 89431 (275)

RN Applicants

Upon a motion by the Vice Chair, seconded by Mr. Duldulao, it was voted on and unanimously carried to approve the following applications:

Sharon Ealy (exam)
Anna Marie Brown (endorsement)
Queen Adderley Brown (exam)

Upon a motion by the Vice Chair, seconded Mr. Duldulao, it was voted on and unanimously carried to defer the following applicant based on HAR §16-89-47:

Faith Tubi (exam)

The Board deferred any further action on the following application:

Amy Richbourg

Request from Dawn Regier

It was the consensus of the Board to inform Ms. Regier of HRS §§ 457-12(a)(8) and (b).

Advanced Practice Registered Nurse (APRN)

Ratification List

Upon a motion by the Chair, seconded by Dr. Napoleon, it was voted on and unanimously carried to ratify the attached list of APRNs and APRN-Rx.

Next Meeting:

Thursday, May 3, 2018
8:30 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

The Chair announced the next scheduled Board meeting and asked if everyone was available to attend.

The Vice Chair stated that he will not be able to attend.

Adjournment: There being no further business to discuss, the meeting was adjourned at 11:44 p.m.

Taken by:

/s/ Lee Ann Teshima
Lee Ann Teshima,
Executive Officer

LAT

4/6/18

Minutes approved as is.

Minutes approved with changes; see minutes of _____.