

BOARD WORK SESSION

September 23, 2011

MINUTES

CALL TO ORDER

Pat Markesino, Board President, called the Oregon State Board of Nursing Work Session to order at 8:35a.m. This Board meeting was held in the conference room of the offices of the Oregon State Board of Nursing in Portland, Oregon.

PUBLIC MEETING NOTICE

A notice of this meeting was published on the Board of Nursing's website and sent out to the interested parties list by Holly Mercer, Executive Director, in accordance with the Open Meeting Law. The Board met in Executive Session during portions of the meeting as authorized by ORS 192.502 and 192.660.

ROLL CALL — Present/Absent

—Board Members

Cain, Present
Carnegie, Excused
Cosgrove, Present
Markesino, Present
Mill, Present
Souede, Present
Tenscher, Present
Uherbelau, Present
Willis, Present

QUORUM

There being a quorum present, the Board President declared the Board eligible to conduct its business.

—Staff Members Present at Various Times

Blomquist
Buck
Ficarra
Hatcher
Holtry
Hudson
Ingwerson
Klein
McGuire-Sessions
Mercer
Montenaro
McEntee

Lightfoot
Cowan, Board Counsel

8:35 AM

FRIDAY, September 23, 2011
EXECUTIVE SESSION

FRIDAY, September 23, 2011--PUBLIC SESSION

Board President Pat Markesino called the meeting to order at 1:25 p.m. A quorum was present.

HEALTH PROFESSIONALS' SERVICES PROGRAM (HPSP) Triage – Pilot Project

Investigations Manager Marilyn Hudson led a discussion regarding the Health Professionals' Services Program (HPSP), for the purpose of attempting to put into place some guidelines as to how to handle participants' non-compliance, in a consistent manner. Ms. Hudson provided a handout, regarding HPSP Consequence Guidelines, to the Board members, and explained that currently, when there are more than three missed calls in one year, a non-compliance report is issued; there are other non-compliance factors, such as a positive test. Ms. Hudson referred to the handout, and explained that it is being presented for the purpose of obtaining feedback from the Board. The handout detailed each of the three consequence levels and included the types of violations and staff procedures on each level.

Executive Director Holly Mercer stated the goal is to try to draw lines between what the Board's expectations are in terms of staff decisions, particularly at the First Level Consequence. She stated that she is proposing a Compliance Advisory Committee be formed, which would be comprised of internal staff. One of the functions of the committee would be to go through the more problematic cases to determine if they should be kept in the program, or be referred to the Board. She further explained that she is proposing this as a pilot program, which would begin before November. She explained that a committee report, in summary format, would be presented to the board at the November Board meeting and included as a section in the Board packet.

There was discussion regarding consequence levels, missed calls, and positive Urinalysis (UA) tests, with aggravating factors and mitigating factors, leaving "first positive test with mitigating factors" under the First Level Consequence. There was further discussion regarding missed calls and missed tests, and the actual call process. Ms. Mercer stated that she would take the Board's direction to the advisory group and start having the missed call discussion. She explained that the other direction is to explore it from a Probation program standpoint. She asked if there was direction from the Board until some of these changes take place, to use the model of the First Level and Second Level Consequence with the Compliance Advisory Committee (CAC), and report back to the Board in a summary fashion.

Ms. Mercer expressed the importance of streamlining reports to the Board, hoping that the caseloads can be kept manageable. There was discussion regarding statistics of the participants enrolled, identifying applicants that are successful, unsuccessful, inappropriate referrals, and if there are specific patterns. It was suggested that research be conducted to analyze cases and provide the Board with insight in this area.

Ms. Hudson referred to the HPSP Criteria Policy that she drafted and there was discussion regarding some wording in the criteria, and adding a fifth bullet-point of "workplace impairment or diversion." Ms. Mercer stated she would like to see the investigators work with the criteria, and finalize it for the November Board meeting.

Board President Markesino wanted to be clear as to the the direction of the staff, and stated that she welcomes additional comments as this goes forward.

CIVIL PENALTIES/LATE FEES

Ms. Mercer stated that enforcing and collecting the Civil Penalties have always depended on staff time and workloads, and that the Board currently has a very minimal renewal late fee. The Civil Penalties are assessed if a licensee practices without a valid license, which takes a substantial amount of staff time, dedicating at least .5 FTE to do that. She expressed the need to get the attention of the licensees on the front end, by assessing penalties for delinquent renewals. This would allow that, on the date that they expire, they will be assessed a

\$100 late fee. If the renewal is after 61 days, there would be a Civil Penalty in addition to the \$100 fee and the reactivation fee. This is the first discussion about this, and she has had a brief discussion regarding this with the Oregon Nurses Association (ONA). Ms. Mercer informed the Board that a temp has recently been brought in to work on Civil Penalties so that the Investigator now working on these can focus on investigations. This proposed fee would be for LPN/RN, not CNA's. Board Counsel Tom Cowan expressed that he feels that this is appropriate, creating an incentive. Board President Pat Markesino stated that she is comfortable with this fee proposal, and that she believes there is some confusion over the current Active/Pending renewal process. Ms. Mercer stated that she will get clarification around the Active/Pending process, and explained the purpose of creating that process. It was suggested that there be an incentive to renew early, such as a percentage deducted from the renewal fee if the licensee renewed 30 days early. There was direction from the Board to proceed, to institute a communication plan and meet with key stakeholders, to be implemented July 1, 2012. Ms. Hudson brought up the issue of inactive status, so that licensees in this status would not be paying this late fee. Ms. Mercer stated there may be a need for more communication regarding the inactive status.

Board President Markesino brought up the Civil Penalty issue, as it relates to discipline. There was discussion among the Board and staff. Mr. Cowan stated that he believes there are certain violations in which a Civil Penalty may be appropriate and allows more flexibility particularly in low-level cases. It was pointed out that a good example of this is when there is a failure to cooperative, such as not providing requested documents or failure to appear for an interview. There was further discussion regarding failure to cooperate, and Ms. Mercer suggested conducting a survey on all of the other Executive Directors in other states, to determine how many other states issue Civil Penalties along with their standard discipline. The Board expressed agreement that this would be helpful.

WORK-FLOW AND BOARD PACKET CATEGORIES

Ms. Mercer referred to the handout, Work Flow-Applications, and said she wanted to clear up any confusion, particularly around when cases fall into the Below Threshold category, and when cases fall into the Closed Case Agenda category. Ms. Mercer asked the Board for direction on Closed Case Agenda, if the Board would agree on a summary for those. The purpose would be to streamline the packets, provide more of a fact pattern, including the same Board reports, evidence, and work history.

Ms. Hudson asked for direction from the Board on the topic of applicants withdrawing their application. Ms. Hudson explained that when an Investigator is working with an applicant that does not meet the criteria for licensure, but meets the criteria to withdraw their application, they will encourage them to withdraw. At that point, a letter goes to the applicant, which is something the Board never particularly sees or considers. Ms. Hudson pointed out that these are cases in which there are no public safety concerns or risks. She asked for direction from the Board on cases in which an applicant chooses not to withdraw, and goes before the Board, and is denied. She proposed using a stipulated withdrawal as a mechanism for settling, in lieu of a denial. It was agreed that when these cases come before the Board, it would be a denial, unless it is brought up at the time to request the Board to accept a stipulated withdrawal.

STRATEGIC PLAN AND PERFORMANCE MEASURES

Executive Director Holly Mercer suggested removing this from the agenda, due to time constraints. This will be on the agenda of the November Board meeting.

ADJOURNMENT

The meeting adjourned at 3:40 p.m.