

**BOARD MEETING**  
**November 17-19, 2020**  
**MINUTES**

**CALL TO ORDER**

Board President Kathleen (Kat) Chinn, called the regular meeting of the Oregon State Board of Nursing to order. The Board meeting was held at the Oregon State Board of Nursing in Portland, Oregon. To comply with COVID-19 gathering restrictions, the Board meeting was held using electronic media.

**PUBLIC MEETING NOTICE**

A notice of the meeting was published on the Board of Nursing's website and sent out to the interested parties list by Executive Director, Ruby Jason, in accordance with the Open Meeting Law. The Board met in Executive Session during portions of the meeting as authorized by ORS 192.345, 192.355 and ORS 192.660.

**ROLL CALL — Present/Absent**

**—Board Members**

Caddy, Present  
Chau, Present  
Chinn, Present  
Cole, Present (Present 11/17, Excused 11/18 and 11/19)  
Enghouse, Absent  
Green, Present  
Turnipseed, Present  
Woodruff, Present  
Wynter-Lightfoot, Present

**QUORUM**

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

Introductions: staff and Board members

**—Staff Members Present at Various Times**

Blomquist	Koch
Bowman	Messing
Burns	Montalvo
Etherington	Moser
Ficarra	Parish
Gamble	Shults
Gerhardt	Steele
Hennig	Taube
Holtry	Traynor
Jason	Wade
Johnson	West
Ju	
Kilborn	Lightfoot
	Noel
	Rauch, Legal Counsel

**TUESDAY, NOVEMBER 17, 2020**  
**PUBLIC SESSION – 6:30 p.m.**

**Administrative Rule Hearing – OAR 851-001**

The proposed rule revisions related to OAR 851-001, regarding *Rules of Practice and Procedure* were included in the Board meeting materials.

Executive Director Ruby Jason explained that the proposed amendments to OAR 851-001 were previously approved by the Board by the temporary administrative rule making process in response to the Governor's Emergency Declaration regarding COVID-19. The administrative rule hearing for OAR 851-001-0150 was to make temporary rules permanent, with no changes to the originally approved temporary rules.

The hearing opened at 6:38 p.m.

There was no verbal or written testimony given in favor of, nor in opposition to, the amendments to OAR 851-001.

The hearing closed at 6:40 p.m.

**Administrative Rule Hearing – OAR 851-063**

The proposed rule revisions related to OAR 851-063, regarding *Standards and Authorized Duties for the Certified Nursing Assistant and Certified Medication Aide* were included in the Board meeting materials. NA Education and Assessment Policy Analyst Debra Buck explained the background on the work regarding the proposed revisions to OAR 851-063.

The hearing opened at 6:45 p.m.

There was no verbal testimony given in favor of, nor in opposition to, the adoption of OAR 851-063. There was written testimony submitted from Linda Kirschbaum, Senior VP Quality Services – Oregon Health Care Association. The written testimony stated that the Oregon Health Care Association was in support of the proposed changes, with a request to maintain the focus of CNA1 on the long-term care sector and to remove duties that are not typically performed in the long-term care setting. Those items include: OAR 851-063-0030(1), clipping hair in preparation for a surgical procedure, giving Chlorhexidine baths, and Saline locks. An additional comment was to move Fingerstick capillary blood test to the assigned task section.

The hearing closed at 6:50 p.m.

**ADMINISTRATION**

Traditionally, Board officer elections take place in November of each year. Board President-Elect Cole's term ends as of December 31, 2020, along with Board members Enghouse and Turnipseed. Board member Green started his term effective October 2020, and two additional Board members will begin their terms effective January 1, 2021. Board President Chinn agreed to stay on as the Board President for another year. There was agreement that the position of Board President-Elect remain vacant until after the two additional Board members start their terms. Board member Chau agreed to remain in the role of Secretary; without a Board member in the President-Elect role, the Board Secretary would be required to fill the role of Board President should the Board President be unable to attend a meeting. There was discussion and questions regarding the roles of the three Board officers, and agreement to conduct the Board officer elections for 2021 at a future Board meeting, after the two new members begin their terms.

The meeting adjourned at 7:05 p.m.

**WEDNESDAY, NOVEMBER 18, 2020**  
**EXECUTIVE SESSION**

AAG Ella Rauch provided her legal opinion to the Board regarding CNA Discipline Authority.
<b>Consent Agenda</b>
MSC Turnipseed, Wynter-Lightfoot 7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
Based on the procedural record and evidence presented, the Consent Agenda was accepted as modified.
Cases moved to Full Agenda:
19-01312
19-00509
21-00157
20-00899
20-00532
20-00369
20-01041
20-01071
Final Orders of Denial by Default
Emily Barker, RN
Michele Rice, RN
Amanda Pena, CNA
Kacie Hemphill, RN
Final Orders of Suspension by Default
Terry Welch, RN
Cheryl Maccarone, RN
Brenna Boccardo, CNA
Final Order of Revocation by Default:
Jessica Killian, RN
Henry Travis, RN

Ratify Interim Order By Consent
Susan Messner, RN
Blair Steinfeld, RN
Aaryo Bakhtiar, CRNA, RN
Jeanna Taylor, RN
Clifford Beard, CNA
Teresa Brunick, RN
Dawn Garcia, RN
Case Status Reports reviewed:
20-01226
20-01119
20-01136
20-01170
20-00360
Cases approved for Dismissal:
21-00261
20-00936
21-00054
20-01239
20-01192
20-01040
20-01228
20-01012
21-00198
18-01586
20-01246
20-01097
19-01355
20-00439
20-00588
20-01094
20-00488

21-00002
21-00152
20-00057
20-00666
21-00012
20-01072
20-01229
The Board accepted Staff recommendations to dismiss all no NPA Violation and Application and Renewal cases presented on the Consent Agenda
<b>Full Agenda</b>
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in case numbers:
19-01312
19-00509
21-00157
20-00899
20-00532
20-01041
20-01071
Be dismissed.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Wynter-Lightfoot, Turnipseed
That based on the evidence presented, the Stipulation for Withdrawal of Application, signed by following:
Kennan Farmer, RN
Megan Scott, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse

MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Alice Minkoff, NP
Be issued Notices of Proposed Revocation.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Voluntary Surrender, signed by the following:
Alexander Bernal, LPN
Tania Cheng, RN
Charles Fanto, RN
Dawn Garcia, RN
Rene Nunn, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Reprimand, signed by the following:
Patricia Butler, LPN
Kathleen Davis, RN
Vena Edwards, RN
James Jacobson, RN
Christian Pass, RN
Charlene Sikel, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Reprimand with Civil Penalty, signed by following:
Kellee Murga, CNS – PP, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse

MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Suspension, signed by following:
Theresa Mabie, RN
Mark Logue, RN
be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Suspension followed by Probation, signed by following:
Stacey Bonomo, LPN
Taylor Parks, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Suspension followed by Probation, signed by following:
Tyler Berch, CRNA
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Janine James, RN
Talisha Bigelow, CNA
Be issued a Notice of Proposed Denial.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Clifford Beard, CNA
Beth Morrison, RN
Be issued Notices of Proposed Revocation.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse

MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in case numbers:
19-01115
Be dismissed.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in case number:
21-00349
21-00211
Be dismissed with a last chance letter.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Nancy Wanetick, RN
Be issued a Notice of Proposed Revocation.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Allison Krawza, RN
Withdraw Final Order of Suspension by Default for Failure to Cooperate
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Probation, signed by the following:
Elisha Gonzales, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse



MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, a Stipulation for 90 Day Suspension with time served on the ICO, signed by the following:
Theron Sherrell, CNA
Be adopted if received before 12/9/2020.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
20-00864
Entrance into HPSP be granted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Mark Schatz, RN
Maranda Ingram, CNA
The case be closed as an inactive investigation and a hold be placed on the contact record.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
<b>Addendum</b>
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in case numbers:
20-01120
Be dismissed.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented, the Stipulation for Voluntary Surrender, signed by the following:
Charles Hansen, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse

MSC Caddy, Green
That based on the evidence presented, the Amended Stipulation for Suspension followed by Probation, signed by the following:
William Kabele, CRNA - PP
Be adopted.
6 Ayes, 1 Excused – Cole, 1 Absent – Enghouse, 1 Abstention – Turnipseed
MSC Caddy, Wynter-Lightfoot
That based on the evidence presented in case number:
19-01340
Be dismissed.
6 Ayes, 1 Excused – Cole, 1 Absent – Enghouse, 1 Abstention – Turnipseed
MSC Caddy, Wynter-Lightfoot
That based on the evidence presented in case numbers:
Betty Shaffer, RN
Withdraw the notice of proposed suspension and close case.
6 Ayes, 1 Excused – Cole, 1 Absent – Enghouse, 1 Abstention – Turnipseed
MSC Turnipseed, Wynter-Lightfoot
That based on the evidence presented in the following:
Leslie Stafford Smith, CMA
Be issued a Notice of Proposed Suspension.
6 Ayes, 1 Excused – Cole, 1 Absent – Enghouse, 1 Abstention – Turnipseed
MSC Caddy, Wynter-Lightfoot
That based on the record presented, to find the exceptions not persuasive and without merit and to adopt the ALJ proposed order as the Final Order of Suspension as revised
Corrine Flint, RN
Be adopted.
7 Ayes, 1 Excused – Cole, 1 Absent – Enghouse
Adjourned at 3:55 PM

**THURSDAY, NOVEMBER 19, 2020**

Board Kathleen (Kat) Chinn called the meeting to order at 9:00 a.m. A quorum was present.

Introductions: staff and Board members

**EXECUTIVE SESSION**

The Board met in Executive Session to obtain advice from Legal Counsel regarding a nursing program.

**PUBLIC SESSION**

**REVIEW OF MEETING AGENDA**

**ADDITIONS, MODIFICATIONS, REORDERING OF AGENDA**

There were no requests for additions or modifications to the agenda.

**FINANCIAL REVIEW**

This item was removed from the agenda.

**APPROVAL OF BOARD MEETING MINUTES**

- C-M1 Approval of Minutes from the September 8-10, 2020, Board Meeting
- C-M2 Approval of Minutes from the October 7, 2020, Board Meeting

M.S.C. Turnipseed, Chau  
that the Board Meeting Minutes be approved as presented  
Ayes 5, Excused 1 (Cole), Absent 2 (Enghouse, Green)

**APPROVAL OF CONSENT AGENDA**

- C-A1 Fiscal Status Report
- C-A2 Communications and IT Report
- C-A3 Discipline by License Type
- C-A4 Discipline by NPDB by License Type
- C-L1 Ratification of NA/MA Training Program Approvals and Withdrawals
- C-L2 Licensing Report
- C-E1 Concordia St. Paul Nursing Program Major Curriculum Change
- C-AP1 Approved Oregon Clinical Placements for Advanced Practice Students  
Enrolled in Programs Out-of-State
- C-AP2 Approved Oregon Clinical Placements for Pre-Licensure Students  
Enrolled in Programs Out-of-State

M.S.C. Turnipseed, Chau  
that the Consent Agenda items be approved as presented  
Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

## **ADMINISTRATIVE RULES**

### H1. Amendments to OAR 851-001 Regarding Rules of Practice and Procedure

The administrative rule hearing was held on November 17, 2020. There was no testimony presented regarding the proposed rule revisions to OAR 851-001-0150. The proposed revisions were to make temporary rules permanent. There was no Board deliberation regarding the proposed amendments.

M.S.C. Turnipseed, Chau

that the proposed amendments to OAR 851-001-0150 be adopted as presented  
Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

### H2. Amendments to OAR 851-063 Regarding Standards and Authorized Duties for the Certified Nursing Assistant and Certified Medication Aide

There was written testimony received and presented during the administrative rule hearing held on November 17, 2020. There was no Board deliberation regarding the proposed amendments.

M.S.C. Turnipseed, Chau

that the proposed amendments to OAR 851-063-0030, 851-063-0035, 851-063-0070, 851-063-0090, and 851-063-0100 be adopted as presented  
Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

## **NURSING ASSISTANT (NA) EDUCATION AND ASSESSMENT**

### CNA1. Continued Use of Simulation in NA Education Programs

Ms. Buck gave a presentation pertaining to the survey results of the NA programs; there were 34 responses with 88% completion rate. Clinical site insecurity continues to be an issue. Only 50% of the programs using simulation ensured that the faculty received education and competency validation on pre-briefing and debriefing techniques, and two programs reported following the NACSL standards of best practice for simulation. No programs reported having faculty members nationally certified in simulation education. NA faculty are developing their own simulation scenarios and modifying resources that are designed for nursing education, and doing what they can for simulation experiences. What was discovered as a result of the survey was that there are no resources specific to nurse aide education; the faculty are requesting education on the implementation of simulation; faculty believe that creating the case studies and scenarios improve their instructions and promote student critical thinking. Ms. Buck requested Board direction for nursing assistant education during the pandemic; does the Board continue to allow simulation to replace in-person clinical hours, and how many hours should that be? There was Board discussion regarding no directive currently in rule to make exceptions to clinical practicum requirements.

### CNA2. Environmental Scan

The Department of Human Services is now using the acronym ODHS (Oregon Department of Human Services), instead of DHS (Department of Human Services), due to the immigrant community associating DHS with Department of Homeland Security, and thus not seeking their services.

On October 26, 2020, ODHS reported that the report they submitted to Board staff regarding facilities paying civil penalties was configured incorrectly. ODHS submitted revised reports for 2018, 2019, and 2020. Subsequently, Ms. Buck sent notices to 11 facilities that they were no longer eligible to host NA education. Those 11 facilities were being utilized by several NA programs, which only added to the challenge of the access to clinical sites.

Oregon has continued to educate and test nursing assistants throughout the pandemic, and have fared better than other states who have used other testing companies. For example, from March 1, 2019 to November 17, 2019, Oregon NA programs graduated 2,682 students and Headmaster tested 2,293 students with a 83.73%

first time pass rate. From March 1, 2020 to November 17, 2020, Oregon NA programs graduated 1,548 students and Headmaster tested 1,910 students with a 87.28% first time pass rate. That means there were 1,134 less graduates and 383 less tests administered than last year during the same timeframe.

Under the authority of the Governor's March 8, 2020 Executive Order 20-03, on October 12, ODHS sent out a provider alert to all licensed nursing facilities, allowing for temporary nurse aide training. This means that after eight or nine hours of an online course, and a successful completion of an online Oregon Care Partner Education on infection prevention and the American Healthcare Association Temporary Feeding Assistant Program, they can employ individuals to perform nursing assistant duties. They can also employ students enrolled in LPN and RN programs in Oregon. There is no requirement for these individuals to complete the eight hours of online training, but they would still be required to complete the supplemental online training on feeding older adults, and the COVID infection prevention. Ms. Buck stated that she contacted ODHS regarding title protection, they subsequently sent out a correction and revised the memo, now titling these individuals Personal Care Assistants. There was Board discussion and questions.

The Board has been working with RISE in collaboration with long term care facilities on an apprenticeship program for nursing assistants. Several partners are working on a grant to create an NA program with mentorship built into the program. The goal is to improve retention of nursing assistants in long term care. BOLI approves the apprenticeship applications and they have specific timelines for the approval and are requesting a letter of support from the Board for their application for submission to BOLI. There has been no application submitted, as they are still building curriculum into their online system. There was Board discussion and direction to Board staff to respond that the Board does not typically support programs,

## **PRACTICE AND EVALUATION**

PR1. Interpretive Statement Amendments – Oregon State Board of Nursing and Oregon Department of Human Services Joint Statement on the Licensed Practical Nurse (LPN) who Practices in a Community-Based Setting

Practice and Evaluation Policy Analyst Gretchen Koch Practice referred to the draft interpretive statement included in the Board meeting materials, the joint statement on The LPN Who Practices in a Community-Based Setting. The statement was originally adopted by the Board in 2017 in response to LPN practice issues that organizations were experiencing in community-based settings. Ms. Koch reviewed the proposed revisions, including changing the Department of Human Services acronym (DHS) to ODHS, in the agency's efforts to differentiate from the Department of Homeland Security. Additional revisions included identifying the current version of the Oregon Revised Statutes and updating language regarding the current rule language in OAR 851-006, Standard Definitions, specifically, focused assessment and focused plan of care at the LPN level of practice. There were minor suggested corrections and language revisions for clarity.

M.S.C. Woodruff, Chau

that the Interpretive Statement Oregon State Board of Nursing and Oregon Department of Human Services Joint Statement on the Licensed Practical Nurse who Practices in a Community-Based Setting be approved as modified Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

PR2. Draft OAR 851-049 – Standards for Licensed Nurse Protocol Utilization, Administration of Over-the-Counter Medication by Use of a Symptom-Based Protocol, Communication of a Prescriber's Re-authorization of a Prescription and RN Dispensing

This item was removed from the agenda.

PR3. Revisions to OAR 851-047 – Standards for the Registered Nurse Delegation Process

Ms. Koch explained that OAR 851-047 sets forth delegation process requirements at the RN level of licensure. Delegation process, as defined by OAR 851-006, the standard definitions division, means the process utilized by an RN to authorize an unregulated assistive person to perform a nursing procedure for a client while the RN retains accountability for the outcome. The RN level practice privilege is carried out when the client's environment of care is a community-based care setting such as a private home, a foster home, a school setting, or a larger congregate residential service setting such as assisted living and residential care. The OSBN legal counsel will review administrative rule language; the topic will be brought back to the Board at the February 2021 Board meeting. The timeframe will also allow for additional stakeholder comment. Ms. Koch reviewed new draft language on the RN's use of telehealth technologies that are consistent with the American Academy of Ambulatory Nursing Care Scope and Standards of Practice for Professional Telehealth Nursing. Board direction to Board staff to continue with the rule writing for Division 47, remove the telehealth standards and place into interpretive statement. Draft rules will be presented to the Board at the February 2021 Board meeting, with additional interpretive statements, for a possible motion for administrative rule hearing to be made at the February 2021 Board meeting.

PR4. Update on Jurisprudence Study Guides and Examinations

Ms. Koch provided an update on the Jurisprudence Examination and Study Guide. At the June 2020 Board meeting, the Board gave direction to Board staff to proceed with the development of an online jurisprudence examination designed to evaluate applicants' and licensees' knowledge and understanding of the laws and regulations that regulate practice. Study guides are in development for the RN and LPN level of practice, and for the CNA/CMA. Ms. Koch referred to the Board materials, which included an outline showing content organization for the study guide, basic information about the Nurse Practice Act, the responsibilities of the nine-member Board, and Board staff that support the work of the Board. The draft study guides, at least for the RN, LPN, and CNA, will be presented to the Board at the February 2021 Board meeting, which will allow time for staff and Board members to provide input on content. Board staff will be administering the study guides and exams through the Oregon Department of Administrative Services' new Workday Learning, a learning management system (LMS); the new LMS will replace Oregon iLearn and is scheduled to launch around July 2021, the same time that the jurisprudence exam is expected to launch. Ms. Koch explained that she will work with staff regarding internal process changes.

PR5. Environmental Scan

Ms. Koch provided an update on occupational licensure compacts across the U.S and U.S. territories. The Council of State Governments (CSG), representing all three branches, legislative, executive, and judicial, for state government, entered into an agreement with the Department of Defense, to develop strategies for occupational licensure across the states. The impetus is to assist service members and their spouses, with implications to roll out further.

Currently, 40 states and territories have adopted occupational licensure compacts for nurses, physicians, physical therapists, emergency medical technicians, psychologists, and speech therapists and audiologists, with a total of about 240 individual compacts. An update on the Nurse Licensure Compact (NLC) included that it is remaining static with 34 states as having membership; this number represents about 68% of the nursing regulatory bodies. An update on NLC legislation was providing noting there is legislation pending in Michigan, Ohio, Pennsylvania, Maine, Vermont, Rhode Island, and Guam, to enter into the NLC. Ms. Koch reported that the National Council of State Boards of Nursing (NCSBN) recorded that for the 2021 legislative session, licensure compact legislation is expected to be filed in Alaska, California, Nevada, and Washington. To date, Oregon and Connecticut remain the only two states that have never put legislation forward on the Nurse Licensure Compact.

## **ADMINISTRATION**

### A1. Director's Report

Executive Director Ruby Jason provided a directors report. The new electronic application portal went live the previous weekend. The issue with the portal is that graduates of Oregon based programs cannot apply for their license until their graduation, or after they graduate, which has caused concern and possible delays in licensing. With the removal of the candidate list several years ago, and moving to the graduation attestation process, there is little difference between the new and previous processes. Board staff met with a representative from the Oregon Council for Associate and Practical Degree Nursing Programs to discuss this issue, hopeful that there is a clear understanding. It was stressed that nursing programs should contact the Board should they have issues.

On December 9, 2020, Board staff will host a session for the Deans and Directors of the nursing programs, to do a complete review of Division 21 rules that will become effective January 1, 2021. The meeting will include an orientation for new deans and directors regarding the role of the Board, program surveys, and annual reports.

The Department of Veterans Affairs (VA) is issuing an interim final rule to confirm that its health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any state license, registration, certification, or other requirements that unduly interferes with their practice. Specifically, this rulemaking confirms the VA's current practice of allowing VA health care professionals to deliver health care services in a state other than the health care professional's state of licensure, registration, certification, or other state requirements, thereby enhancing beneficiaries' access to critical VA health care services. This rulemaking also confirms VA's authority to establish national standards of practice for health care professionals which will standardize a health care professional's practice in all VA medical facilities. This means that the VA could be writing their own practice act for all professionals when practicing in VA facilities. In addition, the VA is moving towards home care for their patients. The rules are open for public comment and are pending.

Ms. Jason reported on the status of the agency budget; the Governor's requested budget will come out after December 1<sup>st</sup>, including the Governor's edits. After the Governor submits the budget request, it will then go to the Legislative Fiscal Office for review. The agency is still in a tight budget situation. The agency is self-funded through licensing fees; it is possible that the agency's reserve funds may be taken by the state for the general fund.

The OSBN offices remain closed to the public and the Governor's ordered lockdown has reversed the trend of staff coming back into the office in lieu of working remotely. Managers were asking staff to come into the office at least once per week for agency business and meetings; that has now ended with the Governor's new lockdown. Staff are encouraged to work remotely as much as possible, and phone lines have been turned off again due to a lack of available staff to manage incoming phone calls. Staff continue to address questions through the general email box, but not receiving direct answers has been difficult on the licensees.

Quarterly statistics indicate that 30% of cases end in discipline. For the previous biennium, 2017-2019, the percentage of cases that ended in discipline was 23.5%. The eighth quarter of this biennium had five contested cases, compared to 12 in the first quarter of the biennium. It is estimated that the agency will spend approximately \$1.5 million on legal expenses on a budget of \$853,000, being over budget on legal expenses this biennium by over \$600,000, most of which is due to contested cases. The budget for DOJ was \$740,000 for the last biennium; the cost was \$889,000, \$150,000 over the budget. One of the agency's current major initiatives is to determine why there is an increase in contested cases.

### A2. Update – Temporary Authorization to Practice During a Declared Emergency

License Manager Tracy Gerhardt was unavailable to present the agenda item to the Board. Ms. Jason explained that at the September Board meeting, the Board directed Board staff to provide a report on the statistics regarding Temporary Authorization to Practice During a Declared Emergency. Those statistics were included in the Board meeting materials; there are currently 128 active emergency authorizations. These numbers may increase due to the resurgence of the virus. Board staff denied 550 requests; the number underrepresents the actual total; from March, 2020 through August, 2020, most applicant forms submitted were incomplete or had a staffing agency

listed as the employer. These were denied but not saved for statistical purposes. There was a conversation with the OHS medical director, and the directors of the Board of Medicine and the Board of Nursing, regarding emergency authorizations; also, there is a lot of confusion with CNOs about these emergency authorizations. Ms. Jason stated that she will have a meeting with the leadership groups of Oregon Association of Hospitals and Health Systems (OAHHS), and the Northwest Organization of Nurse Leaders, to compare what is authorized by statute with the emergency order from the Governor. The comparison chart will be posted on the OSBN website.

#### A3. Fee Payments

Ms. Jason reminded the Board that there was a proposal from Board staff to move towards debit and credit cards only for payment of licensure applications and license renewal fees. At the September Board meeting, direction from the Board to Board staff was to do additional research and send a survey to other member Boards to inquire about that types of payments they accept. The result of the survey was included in the Board meeting materials. Survey responses were received from 26 of the other 47 member boards. Most Boards do not take cash or checks. Internal data included that 93.3% of new license application fees and 99% of renewals were paid by credit card. There are few applications that are accepted by paper form, checks would still be accepted for payment for these applications. For other states, applicants who may not have their own credit card can purchase a temporary gift-type card. This would be an operational change, no change to statute or rule. Board direction to Board staff to change internal and online processes to accept only credit and debit cards for online licensure transactions.

#### A4. Delegation Authority Related to Disclosure of Investigation Information

Investigations Manager Jacy Gamble reminded the Board that at the June 2020 Board meeting, Ms. Jason presented to the Board information related to the requirements set forth in ORS 676.175(2)(b) and ORS 676.180, which states that the Board has the option of the ability of a complainant to request a summary of the information considered when dismissing a case; this is for cases in which there was no discipline. Board staff contacted the Oregon Medical Board, the Board of Dentistry, and the Oregon Health Licensing Office, to determine if those Boards implemented the statute and if so, discuss their processes. The Oregon Medical Board does not implement the statute and follows processes similar to the OSBN; they do not release a summary of information when a complainant requests it. The Board of Dentistry has been implementing the statute for some time; their process includes taking the request to the Board, and their legal counsel would work with the Board. Ms. Gamble explained their process, also included in the memo in the Board meeting materials. Board staff also contacted the Oregon Health Licensing Office (OHLO) who oversees approximately 16 Boards and Commissions. The OHLO has also implemented the statute; their process is similar to that of the Board of Dentistry. Ms. Gamble explained their process, also included in the memo in the Board meeting materials, adding that the OHLA receives approximately 25 of these requests per year. Ms. Gamble explained that due to the fact that the OSBN regulates many more licensees than any other health regulatory Board, and opens many more cases. Board staff requested that the Board determine whether or not they wish to delegate authority to the Executive Director or designee to implement a process to comply with ORS 676.177, and whether to adopt, or not adopt, the complainant disclosure process as described in ORS 676.175 and ORS 676.180.

M.S.C. Turnipseed, Chau

that the Board not adopt the complainant disclosure process as described in ORS 676.175(2)(b) and ORS 676.180  
Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

#### A5. Draft of Proposed Changes to OAR 851-001

Ms. Jason reminded the Board that Board staff to proceed with rule writing to revise OAR 851-001, Rules of Practice and Procedure. Some of the language in OAR 851-001 are promulgated by the Attorney General under the Administrative Procedure Acts. The decision of Board staff was to not convene a rule advisory committee; Board legal counsel is on the internal committee to rewrite rules to provide advice. The purpose of the update before the Board was to review the language revisions to date, for Board direction whether to move forward to the administrative rule process. Ms. Jason reviewed the proposed draft changes to date, and the reasons for the



revisions. Board direction to Board staff to proceed with temporary rulemaking to add language to OAR 851-001-0145, which would allow the Board to waive certain criteria for approval of nursing education programs based upon the circumstances of the declared emergency. The approval for temporary rule will be added to the December 9, 2020, Board meeting.

- A6. Postponement of Administrative Rules OAR 851-031, OAR 851-051, OAR 851-053, and OAR 851-055, to March 1, 2021

Ms. Jason reminded the Board that the referenced rules were adopted through the administrative rulemaking process, to be filed effective January 1, 2021. Due to the transition to electronic applications and other IT related business, there was some concerns raised regarding the language of the new rules not aligning with internal processes. Board staff requested that the effective date of the rule revisions be moved to March 1, 2021; there could be the need for additional administrative rule hearings for additional revisions.

M.S.C. Turnipseed, Chau

that Board staff be allowed to postpone implementation of revisions to OAR 851-031, OAR 851-051, OAR 851-053, and OAR 851-055, until March, 2021, with possible administrative rule hearings for amended sections Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

- A7. Public Recognition of Board Members Who are Completing Their Terms as of December 31, 2020

Board President Chinn recognized the three Board members whose terms are ending effective December 31, 2020. Those Board members are Barbara (Bobbie) Turnipseed, Adrienne Enghouse, and Annette Cole. The Board members were presented with plaques for their service as Board members with the Oregon Board of Nursing.

## **EDUCATION**

- E1. Application for Developmental Approval: Bushnell Accelerated BSN Program

Ms. Jason explained that Bushnell University completed the second part of their program approval, the developmental application, and referred to the information in the Board meeting materials. Linda Veltri, Associate Dean of Nursing, was available for Board questions. Ms. Jason stated she compared the application for developmental approval with the current administrative rules in OAR 851-021. Not only did Bushnell meet, but they exceeded all requirements, and found no deficits in their application for developmental approval. There were questions from the Board regarding clinical nursing experience in skilled nursing facilities and an increase in students, and how that affects other schools as far as clinical placements. Ms. Jason explained that the next step is to get the initial approval application; Dr. Veltri outlined her timetable for when she will present that, which will be at the February 2021 Board meeting. Once the initial approval is attained, the program will admit students; once after they graduate their first cohort of students, they will apply for final approval with the Board.

M.S.C. Turnipseed, Chau

that the Bushnell University Developmental Application be approved as presented  
Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

## **LUNCH BREAK**

## **ADVANCED PRACTICE**

### AP1. Notification from University of Portland to Develop a New NP Track: DNP in Adult-Gerontology Primary Care Nurse Practitioner

Ms. Jason explained that there are currently only two advanced practice programs in the state of Oregon, one at Oregon Health & Science University (OHSU), and one at University of Portland. The University of Portland is proposing the development of an adult gerontology primary care nurse practitioner tract with a focus on palliative care for the existing and fully approved doctor of nursing practice program. The notification to the Board was informational only to add an additional tract, and does not require Board approval.

### AP2. Environmental Scan

Ms. Jason reported that the Center for Medicare and Medicaid Services (CMS) implemented a waiver on some of their payment structures regarding telehealth. The CMS waiver does not extend to licensure, only for payment. There is a national move for borderless care for telehealth, particularly in rural areas. The majority of the emergency authorizations approved by the OSBN Licensing Department were for advanced practice nurses conducting telehealth services. There have been numerous questions from licensees regarding telehealth. There is a need to look at the structure of state-based licensing to determine if it impacts public health and public safety.

At the last Board meeting, the Board approved Board staff to convene a rule advisory committee for the new Emergency Nurse Practitioner (ENP) license type. A notice was posted, however there was no interest in membership to join a committee. Therefore, Board staff will meet to proceed with rule writing to propose adoption of a new rule related to a new license type for ENP. The first proposed draft will be presented to the Board at the February 2021 Board meeting.

## **EDUCATION (continued)**

### E2. Oregon Center for Nursing (OCN) Report – Clinical Placements in an Era of Pandemic

Ms. Jason reminded the Board that the OCN is a not-for-profit organization that researches and publishes information on nursing innovations and Oregon's nursing workforce. The OCN benefits from the nine dollar surcharge for license endorsement and renewal applications. The organization is tasked legislatively to provide information about the nursing workforce, and provide that information free of charge. Ms. Jason referred to a report from the OCN in the Board meeting materials, which included survey results regarding the current clinical placements during the pandemic. The pandemic has created new problems, but has also exacerbated ongoing issues, such as tensions between and among clinical programs and healthcare agencies. The programs need students to have a clinical practicum, yet there are many nurses who do not want to take on that role; with the increase in students, clinical placements become harder to find. The Board has the legislative responsibility of approving education programs, and there has historically been an emphasis on clinical placements. The purpose of the report is to provide information to the Board, to educate the Board on the current issues with the pandemic, and as a precursor to further conversations about the use of virtual simulation as an adjunct or in place of face-to-face clinical practicums.

### E3. Oregon Center for Nursing (OCN) – Recommendations for Evaluating Simulation

Ms. Jason explained that the OCN asked her to be included in a group of nursing educators, researchers, and nursing regulator, for the purpose of evaluating the state of simulated nursing education in Oregon with the onset of the COVID-19 pandemic. The group would offer recommendations for evaluating proposed simulation-based education. The document included in the Board meeting materials submitted by the OCN includes

recommendations about how simulation should be implemented, with the biggest issue being the lack of faculty understanding of the definition of simulation.

#### E4. Clarification of Clinical Simulation Rules Regarding Hours

Board staff have received letters from numerous education programs seeking clarification regarding the revisions to OAR 851-021, specifically regarding what constitutes as clinical practicum. Ms. Jason read excerpts from some of the letters, including questions pertaining to the rule revisions, which are to become effective January 1, 2021. New language states that 49% of total clinical practice hours may be replaced with simulation. The question for the programs that have more clinical hours than required by rule is as follows: is the 51% of hours being actual clinical care applicable to the rule requirements, or the total clinical hours offered by the program? Board member Caddy stated that the bigger issue is what constitutes clinical practicum hours; how do the programs measure those hours? Given the new language in OAR 851-021, which specify that 49% of those clinical hours can be simulation, the way the rule is written is that it seems to be patient care hours only. There was discussion regarding that the Board's definition is of "actual clinical care"; the term is not defined in OAR 851-006, Standard Definitions. There was Board discussion regarding simulation and actual clinical care. There was Board direction to Board staff to develop an interpretive statement regarding this aspect of OAR 851-021; what constitutes clinical hours, how are clinical hours calculated. Ms. Jason stated that she would work with Board member Caddy and obtain clarification from the educators who submitted their concerns, and to research literature, and present the draft interpretive statement to the Board at a future Board meeting.

#### E5. Program Evaluations for 2021

The extensive rule revisions to OAR 851-021 will become effective January 1, 2021; this has created concern in the community from nursing programs who are scheduled to have their periodic Board surveys in 2021. Due to the continuing COVID-19 response and the amount of changes to OAR 851-021, Board staff requested that the programs scheduled for surveys during the first six months of 2021 be allowed to follow the current rules, rather than the new standards in OAR 851-021. Surveys scheduled for July 1, 2021, or later, will be required to comply with rules effective January 1, 2021.

M.S.C. Turnipseed, Chau

that programs whose periodic surveys are scheduled to be done prior to July 1, 2021, be allowed to use the current OAR 851-021, dated August 1, 2019, to show compliance with Board requirements for nursing education programs

Ayes 6, Excused 1 (Cole), Absent 1 (Enghouse)

#### E6. Use of Virtual Simulation as an Adjunct or in Place of Face to Face Clinical Practicum

Ms. Jason provided an update to the Board regarding the use of virtual simulation as an adjunct in place of face-to-face clinical practicum. The Board was provided with a copy of the current NCLEX® scores, by facility, for 2017, 2018, 2019, and the year-to-date scores for 2020. The data indicated that there is no significant difference, even though the numbers are fairly small, between the NCLEX® scores pre-COVID and post-COVID. There is normal variation among programs from year to year, but not enough difference to determine whether or not the lack of actual hands-on clinical experience affected the measurement for entry level competency. Ms. Jason reminded the Board that the NCLEX® is the national exam and also an international exam for most of Canada, which will be transitioning to the English language NCLEX®. Ms. Jason provided a presentation regarding the current status of Oregon nursing education programs. In March of 2020, the Board approved, and continues to approve, online didactic and virtual simulation, approved by the Board from term to term. Over time, the original strategy that programs gave to the Board in 2020 has changed, simply due to experience, as well as the way students respond to simulation. At the direction of the Board, Board staff developed a survey which was sent to all undergraduate programs; there was 100% participation. At the time of the survey, 92% of the programs stated that students were able to resume clinical placements; one program stated that 51% to 75% of students were relying on virtual clinical practicums while one program stated this number was 75% to 100%. 53.85% of programs stated that virtual

clinical practicum was as a cohort using synchronous technology with faculty, which means the clinical practicum was done virtually, with the entire cohort and faculty present in real time. 26.92% stated they were in an asynchronous environment without faculty. 19.23% stated “other” including synchronous debriefing, one program stated they use face-to-face simulation, or both asynchronous and synchronous simulation.

OAR 851-021 and OAR 851-061 require specific numbers of clinical practicum hours; traditionally, this has been face-to-face clinical settings and face-to-face lab teaching. The Board has given direction for temporary rule for the Board to waive certain practicum hours based on the Governor’s Emergency Declaration, and direction for Board staff to develop an interpretive statement as to what defines clinical practicum hours. For advanced practice licensees, there is no set number of required hours, only that clinical hours must exceed classroom hours. There has been minimal feedback from the advanced practice nursing programs regarding clinical placements. There was Board discussion regarding if programs can graduate entry level practitioners without the clinical practicum hours required by rule. There is currently nothing in statute that requires a certain number of clinical hours. Statute states that a competent entry-level practitioner is defined by: 1) graduation from an approved program; 2) passing the NCLEX®; and 3) meeting other standards approved by the Board (criminal background check, disclosure question review, payment of fees, etc.). There was Board discussion and direction to develop an interpretive statement, “patient care hours” – NA education would be separate. Board direction to schedule a Special Board Meeting, for December 30, at 2:30 p.m. The interpretive statement will be presented to the Board at this meeting.

### **NEXT BOARD MEETING**

The next scheduled Board Meeting will be December 9, 2020, and will include both a public session and executive session.

### **ADJOURNMENT**

Adjourned at 1:28 p.m.