

BOARD OF NURSING

Open Session Agenda

September 6, 2023
9:00 a.m.

VIRTUAL MEETING NOTICE

This meeting will be held by WEB-EX. Information on how to access the public portion of the meeting is listed below:

Join by Web:

<https://dcnet.webex.com/dcnet/j.php?MTID=mcc28cf799c8f6eccc4f690b77e9e8b4b>

Join by Phone:

1-650-479-3208 (US/Canada)

Access Code:

172 969 3891

Board of Nursing Mission Statement:

“The mission of the Board of Nursing is to safeguard the public’s health and well-being by assuring safe quality care in the District of Columbia. This is achieved through the regulation of nursing practice and education programs; and by the licensure, registration and continuing education of nursing personnel.”

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov

BOARD MEETING PARTICIPANTS:

BOARD MEMBERS:	
Meedie Bardonille, RN (MB)	
Laverne Plater, RN (LP)	
Rick Garcia, RN, PhD (RG)	
Margaret Green, LPN (MG)	
Kemi Cooper, DNP, RN (KC)	
Patricia Howard-Chittams, RN (PHC)	
Michelle Clausen, RN (MC)	
Tiffany Simmons, RN (TS)	
BOARD STAFF:	
Teresa (Terry) Walsh, PhD, Executive Director	
Cathy Borris-Hale MHA, RN	
Melissa Mokel, PhD, RN	
Concheeta Wright BSN, RN	
Gregory Scurlock, Compliance Officer	
Mark Donatelli, Investigator	
DaNeka Bigelow, Health Licensing Specialist	
Melondy Franklin, Supervisory Health Licensing Specialist	
LEGAL STAFF:	
Panravee Vongjaroenrat, Assistant General Counsel	
Angel Cruz, Assistant General Counsel	

The Open Session Agenda continues with 'Board Meeting Participants / Call to Order'.

AGENDA

OS-23-09-01	<u>CALL TO ORDER</u>																							
OS-23-09-02	<u>ROLL CALL OF BOARD MEMBERS AND STAFF</u>																							
OS-23-09-03	<u>AGENDA APPROVAL</u> Board Action: Consideration of the Agenda for today’s meeting, Sept. 6, 2023.	Decision																						
OS-23-09-04	<u>MEETING MINUTES APPROVAL</u> Board Action: Consideration of the Open Session minutes from the July 5, 2023, meeting.	Decision																						
OS-23-09-05	<u>REPORTS</u> A. Board Chair Report B. Executive Director Report i. Nurse Specialist for Education ii. Operation Nightengale Update iii. License number updates (8/30/2023) <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>LICENSE TYPE</u></th> <th style="text-align: right;"><u># OF LICENSEES ISSUED</u></th> </tr> </thead> <tbody> <tr> <td>Certified Nurse Midwife.....</td> <td style="text-align: right;">156</td> </tr> <tr> <td>Clinical Nurse Specialist.....</td> <td style="text-align: right;">37</td> </tr> <tr> <td>Home Health Aide.....</td> <td style="text-align: right;">8,390</td> </tr> <tr> <td>Licensed Practical Nurse.....</td> <td style="text-align: right;">1,492</td> </tr> <tr> <td>Nurse Practitioner.....</td> <td style="text-align: right;">3,696</td> </tr> <tr> <td>Registered Nurse.....</td> <td style="text-align: right;">35,095</td> </tr> <tr> <td>Certified Registered Nurse Anesthetist...</td> <td style="text-align: right;">172</td> </tr> <tr> <td>Trained Medication Employee.....</td> <td style="text-align: right;">1,476</td> </tr> <tr> <td>CNA.....</td> <td style="text-align: right;">5,102</td> </tr> <tr> <td>Total.....</td> <td style="text-align: right;">55,616</td> </tr> </tbody> </table>	<u>LICENSE TYPE</u>	<u># OF LICENSEES ISSUED</u>	Certified Nurse Midwife.....	156	Clinical Nurse Specialist.....	37	Home Health Aide.....	8,390	Licensed Practical Nurse.....	1,492	Nurse Practitioner.....	3,696	Registered Nurse.....	35,095	Certified Registered Nurse Anesthetist...	172	Trained Medication Employee.....	1,476	CNA.....	5,102	Total.....	55,616	Informational Report
<u>LICENSE TYPE</u>	<u># OF LICENSEES ISSUED</u>																							
Certified Nurse Midwife.....	156																							
Clinical Nurse Specialist.....	37																							
Home Health Aide.....	8,390																							
Licensed Practical Nurse.....	1,492																							
Nurse Practitioner.....	3,696																							
Registered Nurse.....	35,095																							
Certified Registered Nurse Anesthetist...	172																							
Trained Medication Employee.....	1,476																							
CNA.....	5,102																							
Total.....	55,616																							

	<p>iv. Delegated Authority updates (attachment)</p> <p>C. Board Attorney Report</p> <p>a. Conduct Legislation in other states – see attachment https://www.cmadocs.org/newsroom/news/view/ArticleId/49888/Governor-signs-CMA-bill-to-protect-patients-and-the-sanctity-of-the-physician-patient-relationship</p> <p>D. Legislative Update – Matteo Lieb</p> <p>a. District of Columbia Nurse Licensure Compact Authorization Act of 2023</p> <p>i. Councilmember Frumin, along with Councilmembers Parker, Gray, Henderson, Pinto, R. White, and McDuffie introduced the <i>District of Columbia Nurse Licensure Compact Authorization Act of 2023</i> (B25-0430) on July 13th, 2023.</p> <p>ii. This bill brings the District into the Nurse Licensure Compact (NLC) which allows either Registered Nurses (RNs) or Licensed Practical Nurses (LPNs) who have a license in a home state recognized by the NLC to practice in other states party to the NLC.</p> <p>iii. 41 states, including Maryland and Virginia, have enacted the NLC thus far.</p> <p>iv. DC Health is evaluating this compact and there will likely be a hearing this fall.</p> <p>b. Uniform Telehealth Act of 2023: Chairman Mendelson, at the request of the Uniform Law Commission, introduced the <i>Uniform Telehealth Act of 2023</i> (B25-0125).</p> <p>i. This legislation “provides a framework to facilitate the delivery of telehealth services consistent with the applicable standards of care and to open state borders for practitioners to assist patients in a more convenient and cost-effective manner.”</p> <p>ii. This legislation is in the Committee on Health and received a hearing on July 6th. DC</p>	<p>Decision</p> <p>Informational</p>
--	---	--

	<p>Health testified during this hearing and expressed concerns with the oversight and equity implications of this legislation.</p> <p>c. Access to Emergency Albuterol and Glucagon Amendment Act of 2023: Councilmember Henderson introduced the <i>Access to Emergency Albuterol and Glucagon Amendment Act of 2023</i> (B25-0226) on March 20, 2023.</p> <ul style="list-style-type: none">i. This legislation would designate albuterol and glucagon as emergency medications under the <i>Student Access to Treatment Act of 2007</i>. Under this bill, employees in public schools certified under an administration of medication training program would be authorized to administer albuterol to students suffering or about to suffer an asthma attack and glucagon to students suffering or about to suffer hypoglycemia due to diabetes with or without a medication action plan. Currently, only students with a medication action plan can receive albuterol or glucagon.ii. This bill received a hearing on July 13, 2023. DC Health testified during this hearing and expressed support for the bill with recommendations addressing the operational and regulatory authority to define, add, and remove medications by rulemaking. It will likely receive a markup in October. <p>d. Health Professional Licensing Boards Residency Requirement Amendment Act of 2023: Councilmembers Henderson and Parker introduced the <i>Health Professional Licensing Boards Residency Requirement Amendment Act of 2023</i> (B25-0312) on June 2, 2023.</p> <ul style="list-style-type: none">i. This legislation would permit non-District residents to serve on health professional licensing boards.ii. There would be restrictions, including that the Board Chair and Consumer Members	
--	---	--

	<p>would continue to need to be District residents and no more than 50% of the Board could be made up of non-District residents.</p> <p>iii. This bill received a hearing on July 13, 2023. DC Health testified during this hearing and expressed support for the need for innovative solutions to fill board vacancies and offered some changes to the bill. It will likely receive a markup in September.</p> <p>e. DC Health Director Appointment: On June 8th, Mayor Bowser announced the appointment of Dr. Ayanna Bennett as DC Health Acting Director.</p> <p>i. Dr. Bennett is a healthcare and public health executive with more than 20 years of experience in clinical practice, clinical service design, system integration, and quality improvement. Dr. Bennett most recently served as Chief Health Equity Officer and Director of the San Francisco Department of Public Health’s Office of Health Equity.</p> <p>ii. The Council will hold a hearing on the <i>Director of the Department of Health Dr. Ayanna Bennett Confirmation Resolution of 2023</i> (PR25-0290). The Committee on Health will hold a hearing on October 5th at 10AM to hear from the Director.</p> <p>f. Council Recess: Council went on recess effective July 14 and will return to session on September 18.</p> <p>E. Education Subcommittee Report Consent Agenda for School Programs – <u>Approved Programs</u></p> <p>a. APRN programs</p> <p>i. GW, Georgetown, CUA, Howard</p> <p>b. BSN programs</p> <p>i. CUA, Georgetown (CNL-BSN & Traditional BSN), Howard, Trinity, UDC (RN to BSN)</p> <p>c. ADN programs</p>	
--	---	--

	<ul style="list-style-type: none"> i. St. Micheals d. LPN Programs <ul style="list-style-type: none"> i. St. Micheals e. NAP programs <ul style="list-style-type: none"> i. Academy of Hope, Allied Health, Calvin Coolidge, Carlos Rosario, UDC, HealthWrite, Opportunities Industrialization Center of DC, Time for Change <p>F. Education Subcommittee Report Consent Agenda for conditions for the following School Programs –</p> <ul style="list-style-type: none"> a. ADN - UDC -Sustain <i>Conditional approval</i> for the program, with a review in November 2023, with the committee requesting that program leadership provide to the Board 1) a review the previous corrective action plan (CAP) provided to the Board, 2) a crosswalk of the previous CAP, and 3) a report on the outcome of the prior year’s CAP referencing ongoing program issues. Furthermore, program leadership will provide to the Board measurable outcomes regarding targets for improvement by the end of the first quarter of 2024. Finally, program leadership will retain a nurse education consultant to conduct a systematic review of the UDC nursing program to validate the CAP, as well as identify additional tactics to correct the trend of student performance on the NCLEX. b. NAP – Summa Prime – <i>Level II Compliance Concern</i> - Request that the program submits a corrective action plan within 45 days, with a subsequent update from the program 45 days after the initial plan submission, to address a compliance issue regarding program pass rates of 67% for 2022. <p>G. Discipline Subcommittee Report</p> <ul style="list-style-type: none"> a. PDMP update 	
--	--	--

SETTLEMENT CONFERENCES, HEARING AND INTERVIEW SCHEDULE

OS-23-09-06

Hearing

Name	NAP School	Date/Status
Bethel	Hearing-Pass rates	9/6/2023 – 1030A

MOTIONS TO CLOSE		
<p>OS-23-09-07</p>	<p><u>MOTION TO CLOSE</u></p> <p>Board Action:</p> <p>To go into closed session to discuss confidential matters as permitted in DC Official Code § 2-575(b)</p> <p>Background:</p> <p>Pursuant to DC Official Code § 2-575(b), the Board will move into the Closed Executive Session portion of the meeting to discuss the following:</p> <ol style="list-style-type: none"> 1. To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements pursuant to § 2-575(b)(4)(a); 2. Preparation, administration, or grading of scholastic, licensing, or qualifying examinations pursuant to section § 2-575(b)(6); 3. To discuss disciplinary matters pursuant to section § 2-575(b)(9); <p>To plan, discuss, or hear reports concerning ongoing or planned investigation of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation pursuant to section § 2-575(b)(14).</p>	<p>Decision</p>
<p>OS-23-09-08</p>	<p><u>MOTION TO ADJOURN</u></p> <p>Board Action:</p> <p>To adjourn the meeting</p> <p>Background:</p> <p>At the end of every meeting a motion to adjourn must be made in open session to close out the business of the Board.</p>	<p>Decision</p>

This ends the Open Session Agenda.

BOARD OF NURSING

Open Session Meeting Minutes

July 5, 2023
9:00 a.m.

VIRTUAL MEETING NOTICE

Due to the COVID-19 pandemic, a hybrid fashion of board meetings will occur. Today's meeting is on ground in Room 216 at DOH, 899 North Capitol Street NE Washington DC 20002

Information on how to access the public portion of the meeting is listed below:

Join by Web: (recording purposes only)

<https://dcnet.webex.com/dcnet/j.php?MTID=mcc28cf799c8f6eccc4f690b77e9e8b4b>

Join by Phone:

1-650-479-3208 (US/Canada)

Access Code:

172 969 3891

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov

Board of Nursing Mission Statement:

“The mission of the Board of Nursing is to safeguard the public’s health and well-being by assuring safe quality care in the District of Columbia. This is achieved through the regulation of nursing practice and education programs; and by the licensure, registration and continuing education of nursing personnel.”

**The Open Session Agenda continues on the next page with the
‘Board Meeting Participants’.**

BOARD MEETING PARTICIPANTS:

BOARD MEMBERS:	
Meedie Bardonille, RN (MB)	Present
Laverne Plater, RN (LP)	Present
Rick Garcia, RN, PhD (RG)	Present
Margaret Green, LPN (MG)	Present
Michelle Clausen, RN (MC)	Present
Patricia Howard Chittams, RN (PHC)	Present
Kami Cooper, RN (KC)	Present
Tiffany Simmons, RN (TS)	Present
BOARD STAFF:	
Teresa Walsh, RN, PhD, NE-C, Executive Director	Present
Cathy Borris-Hale MHA, RN	Present
Concheeta Wright BSN, RN	Present
Mark Donatelli, Investigator	Present
Matteo Lieb, Office of Government Relations Specialist	Present
Melondy Franklin, Supervisory Health Licensing Specialist	Present
DaNeka Bigelow, Health Licensing Specialist	Present
LEGAL STAFF:	
Panravee Vongjaroenrat, Assistant General Counsel	Present

The Open Session Agenda continues the next page with 'Call to Order'.

AGENDA

CALL TO ORDER, APPROVAL OF AGENDA, MINUTES, AND STAFF REPORTS		
OS-23-07-01	CALL TO ORDER	9:05 am
OS-23-07-02	ROLL CALL OF BOARD MEMBERS AND STAFF	
OS-23-07-03	<p>AGENDA APPROVAL Decision</p> <p>Board Action: Consideration of the Open Session Agenda for today’s meeting, July 5, 2023.</p> <p>Motion: Unanimous Vote to approve agenda</p>	
OS-23-07-04	<p>MEETING MINUTES APPROVAL</p> <p>Board Action: Consideration of the Open Session minutes from the May 3, 2023.</p> <p>Motion: Unanimous Vote to approve minutes</p>	Decision
OS-23-07-05	<p>REPORTS</p> <p>A. Board Chair Report -Meedie Bardonille</p> <p>B. Executive Director Report – Teresa Walsh</p> <p style="padding-left: 40px;">a. Criminal Background Check grid – consent agenda item – Attachment I</p> <p>Motion to approve the CBC grid by Laverne Plater, seconded by Margaret Green; approved by unanimous vote.</p> <p style="padding-left: 40px;">b. Delegation Authority – Attachment II</p> <p>Motion to review and approve delegation authority via sections by Patricia Howard Chittams, seconded by Rick Garcia; approved by unanimous vote.</p> <p>Motion to approve the discipline committee section of the delegated authorities by Rick Garcia, seconded by Kami Cooper; approved by unanimous vote.</p> <p>Motion to approve the delegated authority to the education committee by Kami Cooper, seconded by Laverne Plater; approved by unanimous vote.</p>	<p style="text-align: center;">(A) Informational</p> <p style="text-align: center;">(B) (a) see Attachment I</p> <p style="text-align: center;">(b) Attachment II</p>

Motion to approve the delegated authority to the Executive Director, the education specialist, and other staff members by Patricia Howard Chittams, seconded by Rick Garcia; approved by unanimous vote.

Motion to approve the delegated authority to the Executive Director, discipline specialist, and other staff members with a change in language to bullet point #7-staff is to recommend from staff is authorized- by Kami Cooper, seconded by Laverne Plater; approved by unanimous vote.

Motion to reopen the vote regarding the delegated authority to the ED, discipline specialist, and other staff by Patricia Howard Chittams, seconded by Rick Garcia; approved by unanimous vote.

Motion to change the language in bullet point #7- from authorized to recommend, remove bullet point #12, remove the mention of NSA for sanctions and NSA to find, and immediately below, change the language- from request to recommend for approval by Rick Garcia, seconded by Patricia Howard Chittams; approved by unanimous vote.

Motion to approve the delegated authority for Executive Director, professional discipline and COIN staff members removing sub-bullet points #3 and #4 by Rick Garcia, seconded by Kami Cooper; approved by unanimous vote.

c. Census / LPN renewal

LICENSE TYPE	# OF ACTIVE LICENSEES (6/26/2023)
Certified Nurse Midwife	154
Clinical Nurse Specialist	27
Home Health Aide	8,207
Licensed Practical Nurse	1,957
Nurse Practitioner	3,484
Registered Nurse	33,370
Certified Registered Nurse Anesthetist	
Trained Medication Employee	1,454
CNA	5,009

Total	53,834	
<p>Board Attorney Report-Panravee Vongjaroenrat No report</p>		Informational
<p>Education Subcommittee Report a. Board action <u>-Consent agenda items for the below;</u> <i>Decision by the Educational committee on June 29, 2023 as follows (of note, all 1st time pass rates for NCLEX); Year in review 2022:</i></p> <p><i>Motion to approve the decision made by the educational committee, excluding/removing UDC, by unanimous vote</i></p> <p><u>SEE BELOW</u></p>		Decision

	<p>(b) The Catholic University of America Conway School of Nursing -BSN NCLEX pass rate 93.5%; Graduation rate; 84.00%; increasing enrollment. Provisional approval of the BSN program pending a report from program leadership regarding how the program plans to accommodate increased undergraduate enrollment, due within 30 days from request.</p> <p>APRN – Graduation rate – 88.5%. Provisional approval of the APRN program pending a report from program leadership regarding the rate of certification of APRN program graduates in 2022, due within 30 days from request.</p> <p>(c) George Washington (GW) – APRN 67 % Graduation rate. Provisional approval of the APRN program with the Subcommittee requesting an evaluative report and performance improvement plan regarding APRN student progress, due within 30 days from request.</p> <p>(d) Georgetown University - BSN -94% NCLEX pass rates; 93% Graduation rate. Full Approval. CNL - 93% NCLEX pass rates; 95% Graduation rate. Full Approval. APRN – 8% Graduation rate. Provisional approval of the APRN program pending a report from program leadership regarding the rate of certification of APRN program graduates in 2022, due within 30 days from request.</p>	
--	---	--

	<p>(e) University of the District of Columbia (UDC) – BSN -58% NCLEX pass rates; 50% Graduation rate. Sustain conditional approval for the program, with a review again by the BON in November 2023; Program leadership is required to provide to the Board 1) a review the previous corrective action plan (CAP) provided to the Board, 2) a crosswalk of the previous CAP 3) a report on the outcome of the prior year’s CAP referencing ongoing program issues (4) program leadership will provide to the Board measurable outcomes regarding targets for improvement by the end of the first quarter of 2024 (5) program leadership will retain a nurse education consultant to conduct a systematic review of the UDC nursing program to validate the CAP, as well as identify additional tactics to correct the trend of student performance on the NCLEX.</p>	
	<p>UDC Vote deferred at the request of the Education Chair, Dr. Garcia and Board Chair, Ms. Bardonille. Unanimous Vote approved deferral</p> <p>(f)Trinity University – BSN -79% NCLEX Pass rate; 43% Graduation rate. Full approval of the program, with the requirement of a performance improvement plan from program leadership regarding student performance on the NCLEX, due within 30 days of request.</p> <p>(g)Howard University – BSN - 89% NCLEX pass rates, 83% Graduation rate. Full approval. APRN – 50% Graduation rate. Provisional approval of the APRN program pending a report from program leadership regarding the rate of certification of APRN program graduates in 2022, due within 30 days from request.</p> <p>Other Board of Nursing Educational Program updates regarding 2022 Nursing Assistant Programs (HHA, CNA) decisions are deferred.</p>	D

	<p>Legislative Report – Office of Government Relation– Matteo Lieb Telehealth Legislation:</p>	<p>Informational</p>
--	---	-----------------------------

- Chairman Mendelson, at the request of the Uniform Law Commission, introduced the *Uniform Telehealth Act of 2023* ([B25-0125](#)).
 - This legislation “provides a framework to facilitate the delivery of telehealth services consistent with the applicable standards of care and to open state borders for practitioners to assist patients in a more convenient and cost-effective manner.”
- This legislation is in the Committee on Health and is scheduled for a hearing on July 6th, 2023.

Health Licensing Board Roundtable:

- The Committee on Health hosted a roundtable for five health professional licensing boards on June 8th.
 - This roundtable featured the Boards of Professional Counseling, Marriage and Family Therapy, Dentistry, Optometry, and Respiratory Care.
 - The Chairperson for each Board testified.
- During the hearing, Councilmember Henderson asked questions of each Board member on topics including workforce development and board membership. You can watch this hearing at the following [link](#).

Board Membership Legislation:

- Councilmembers Henderson and Parker introduced the *Health Professional Licensing Boards Residency Requirement Amendment Act of 2023* ([B25-0312](#)) on June 2, 2023.
 - This legislation would permit non-District residents to serve on health professional licensing boards.
 - There would be restrictions, including that the Board Chair and Consumer Members would continue to need to be District residents and no more than 50% of the Board could be made up of non-District residents.
- DC Health is reviewing this legislation and does not have a formal position at this time. This bill is scheduled for a hearing on July 13, 2023.

DC Health Director Appointment:

- On June 8th, Mayor Bowser [announced](#) the appointment of Dr. Ayanna Bennett as DC Health Acting Director.
 - Dr. Bennett is a healthcare and public health executive with more than 20 years of experience in clinical practice, clinical service design, system integration, and quality improvement. Dr. Bennett most recently served as Chief Health Equity Officer and Director of the San Francisco Department of Public Health’s Office of Health Equity.
- The Council will therefore consider the *Director of the Department of Health Dr. Ayanna Bennett Confirmation Resolution of 2023* ([PR25-0290](#)). The Committee on Health will hold a hearing to discuss this resolution.

School Nursing & Immunization Hearing:

- The Committee of the Whole hosted a hearing on school nursing and the *School Student Vaccination Amendment Act of 2023* ([B25-0278](#)).

	<ul style="list-style-type: none">○ The hearing featured testimony from Community Health Administration (CHA) Senior Deputy Director, Dr. Thomas Farley. Other government witnesses were Paul Kihn, Deputy Mayor for Education, and Tia Brumsted, Assistant Superintendent of Health and Wellness with the Office of the State Superintendent of Education. They were also joined by Dr. Andrea Boudreaux, Executive Director of Children’s School Services at Childrens▪ Councilmembers asked government witnesses about the new school nursing staffing model, vaccine compliance enforcement, and data sharing. You can watch the hearing at the following link.	
--	--	--

The Open Session Agenda continues the next page with ‘Misc. Items for Discussion’.

BOARD OF NURSING OPEN SESSION MINUTES

July 5, 2023

MISC. ITEMS FOR DISCUSSION

OS-23-07-07 OPEN FORUM/PUBLIC COMMENTS Informational If time permits, the Board Chair will open floor to the public to allow comments, questions

No public comments

The Open Session Agenda continues the next page with 'Motion to Close'.

OS-23-07-08	<p>MOTION TO CLOSE</p> <p>Board Action: To go into closed session to discuss confidential matters as permitted in DC Official Code § 2-575(b)</p> <p>Background: Pursuant to DC Official Code § 2-575(b), the Board will move into the Closed Executive Session portion of the meeting to discuss the following:</p> <ol style="list-style-type: none"> 1. To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements pursuant to § 2-575(b)(4)(a); 2. Preparation, administration, or grading of scholastic, licensing, or qualifying examinations pursuant to section § 2-575(b)(6); 3. To discuss disciplinary matters pursuant to section § 2-575(b)(9); <p>To plan, discuss, or hear reports concerning ongoing or planned investigation of alleged criminal or civil misconduct or violations of law or regulations if disclosure to the public would harm the investigation pursuant to section § 2-575(b)(14).</p> <p>Motion: To close open session and move into executive session made by Rick Garcia, seconded by Margaret Green</p>	Decision
OS-23-07-08	<p>MOTION TO ADJOURN</p> <p>Board Action: To adjourn the meeting.</p> <p>Background: At the end of every meeting a motion to adjourn must be made in open session to close out the business of the Board.</p>	Decision

This ends the Open Session Agenda.

**CBC CATEGORIES
Board of Nursing (BON)**

CATEGORIES OF CBC REVIEW	ACTION
CATEGORY I – ALWAYS REQUIRING BOARD’S ATTENTION Significant issues such as <ul style="list-style-type: none"> • Child molestation/abuse • Serious drug charges • Felony assault and battery • Crime of moral turpitude (e.g. theft, forgery) 	Requiring case-by-case review and measure
CATEGORY II – PATTERN Multiple arrests for the same or similar types of crimes –maybe minor or relatively minor – but possibly indicating a penchant for such acts	Requiring monitoring (with case-by-case exception)
CATEGORY III – RECENTNESS Criminal charges occurring within the past 7 years. Requiring case-by-case determination as to whether the issues raise any practice/professional concerns	Requiring case-by-case review Possible monitoring
CATEGORY IV - INVOLVES SPECIFIC PROFESSIONAL ISSUES OR CREATING CONCERNS OVER PROFESSIONAL CHARACTER (e.g. drug dependence)	Requiring case-by-case review Possible referral to COIN
CATEGORY V - (“MAY BE OK”) Potentially serious and may be of some concern, but applicant provides statement sufficient to reassure Board of rehabilitation.	Cleared and approved
CATEGORY VI – OLD More than 7 years ago and the record is clear since then – pointing to a temporary lapse of judgment and not indicating propensity for crime.	Cleared and approved
CATEGORY VII – CLEAR Very minor and isolated charges such as misdemeanor assaults	Cleared and approved

1985 RULE: Arrests, charges, or convictions – other than in Category I – will be cleared and not considered in reviewing the answer to the crime question. (NOTE: This cut-off date is rolling; accordingly, in 2014, the 1985 Rule became 1986 Rule.)

Revised 4-26-2023/ TMW

Board of Nursing Delegated Authorities for Executive Director and Board Staff

BACKGROUND FOR DELEGATION

Board of Nursing (Board) regulates more than 40,000 nurses and nursing assistive personnel. To facilitate the work of the Board, several basic functions are delegated to the following entities to carry out the Board's work during the interim periods between the Board's meetings:

- 1) Board Committees, made up of 3-4 Board members:
 - a. Discipline Committee – meeting every other month in between Board meetings
 - b. Education Committee – meeting every other month in between Board meetings
 - c. Law and Regulation Committee – convened and meeting as needed
- 2) Executive Director of the Board. The authority delegated to the Executive Director may be supported by staff of the Board such as the Health Licensing Specialists, Nurse Specialist for Education, and Nurse Specialist for Discipline. The Executive Director is also supported by the "Complaint Review Committee" (CRC), made up of staff, i.e. Executive Director, Nurse Specialist for Discipline, Board Investigator, and Board Attorney, and may be supplemented by Compliance Officer or other board staff generally involved with disciplinary matters (including reviews of criminal background check). The CRC generally meets monthly at the Executive Director's convenience and schedule.

The authority delegated to the Executive Director (and staff) involves **simple, routine actions and decisions** that involve no controversy or are based on clear guidelines given by the Board. The actions and decisions made in this manner should be placed on the Board's agenda as Consent Agenda to ensure that the Board is informed of actions and decisions taken on its behalf.

The authority delegated to the Committees involves **discretionary actions and decisions** that are more complicated and may involve the weighing of multiple factors. Some of the delegated authority is final – meaning the decision of the Committee may be immediately implemented; whereas some delegated authority permit the Committee to consider the full

matter and make a recommendation for final decision or action to the Board. The latter will be an agenda item for Board action, while the former will be on the agenda as Consent Agenda.

DELEGATED AUTHORITIES

Authorities Delegated to the Committees of the Board

The Board of Nursing delegates to the **DISCIPLINE COMMITTEE** the authority to:

- Review complaints¹ related to a nursing licensee or nursing assistive personnel to determine the best response and direct the staff to implement the response. Responses may include any of the following:
 - Closing the complaint for lack of violation
 - Issuing an Order to Answer (OTA)²
 - Requesting that the Department of Health (DC Health) issue a summary suspension
 - Requesting an investigation, including obtaining documents
 - Determining and entering into a private or public resolution of a complaint – this means determining the best NSA³ or Consent Order⁴ that best fits the matter at hand.
 - Determining that a formal disciplinary action is required⁵

¹ “Complaints” is used generally to include any information received or obtained from any source that indicates a possible violation of the laws or regulations related to the practice of nursing and practice by nursing assistive personnel.

² OTA requires applicant/licensee to respond to the complaint in writing. The regulation requires that applicant/licensee respond within 10 days. Failure to do so is a violation of the HORA and may be ground for disciplinary action.

³ NSA is a “negotiated settlement agreement.” This is a private settlement agreement with an applicant or licensee based on terms that are determined to best address the matter at hand. For example, the Discipline Committee may decide that an applicant with more than 2 DUIs should be first evaluated by COIN (or practitioner approved by COIN) before the final decision on whether a license should be issued and if so under what terms.

⁴ A Consent Order is a public agreement with an applicant for licensee. It is similar to an NSA in that it is a mutual agreement to resolve an issue at hand. But a Consent Order must be made public and reported to the National Practitioner DataBank (NPDB). This is used when an NSA is not appropriate because there is need to inform the public – usually since health and safety of patients, clients, or the public is involved.

⁵ A formal disciplinary action is an action taken where a settlement is not possible or not desirable. Frequently, this happens after a settlement (either public or private) is proposed and offered to an applicant/licensee, who declines it and so to pursue the final outcome of a complaint, the Board must initiate a formal disciplinary action. This is initiated by the issuance of a Notice of Intent to Take Disciplinary Action (NOI) (An NOI is drafted by the Office of the Attorney General (OAG), signed by the Board Chair, and “served” on the applicant/licensee who is

- Conduct a settlement conference with an applicant/licensee as the Committee deems appropriate
- Any other decision or action that has been delegated to the Executive Director and staff

The Board of Nursing delegates to the EDUCATION COMMITTEE the authority to:

- Review annual reports from nursing education programs, with staff recommendation, and make recommendation to the Board for approval or other actions
- Review NAP Program applications, with staff recommendation, and make recommendation to the Board for approval or non-approval
- Review requests from education programs and make recommendation to the Board
- Consult with staff on education program-related issues and make recommendation to the Board

The Board of Nursing delegates to the Executive Director, with support of the Nurse Specialist for Education and other relevant staff, the authority to:

- Approve curriculum changes in nursing education programs
- Accept annual reports from nursing education programs and request additions or clarifications as needed and compile the reports and present to the Education Committee with staff recommendation
- Evaluate NAP Program applications and make recommendations to the Board or Education Committee
- Approve content of action plans and to request additional information for clarification if needed
- Determine education equivalency for foreign educated nurses and applicants for licensure by examination from educational institutions external to District of Columbia
- Review and approve continuing education for District of Columbia licensed nurses.

The Board of Nursing delegates to the Executive Director, with the support of the Nurse Specialist for Discipline, the CRC, and any other relevant staff, the authority to:

Legally entitled to request a hearing. A hearing may be conducted by the Board or referred to the Office of Administrative Hearing (OAH). If a hearing is referred to the OAH, the OAH judge hearing the case can only issue a recommended decision, which comes to the Board for consideration. The Board may adopt the recommended decision in full or issue its decision (based on the record that was developed by the OAH judge) which may be similar or entirely different from the OAH's recommended decision.

July 1, 2023

- Review complaint and determine the appropriate action (ranging from closing for no violation to the specific actions listed below)
- Issue Order to Answer
- Request investigations
- Offer private NSA to applicant/licensee in compliance with the Board's

Disciplinary Priorities and in the following circumstances:

- Discipline cases for all occupations regulated by the Board of Nursing for sanctions consistent with the approved D.C. Board of Nursing Disciplinary Action Priorities and as delegated in this document.
- Licensee who does not reveal prior criminal conviction (Board of Nursing is aware of conviction on another application, or learns of conviction from another source), offer NSA to fine and approve for licensure.
- Action taken by another state board of nursing, staff is authorized to offer a NSA with reciprocal action or refer licensee to the Sanctions Review Committee (SRC).
- Practicing on expired license/certificate
- Single medication error with no patient harm
- Continuing Education Violations
- Single incident of exceeding scope of practice – accepting assignment or agreeing to do a task without adequate training obtained or competency maintained and no patient harm
- Inappropriate verbal response that does not rise to the level of verbal abuse
- Failing to reveal a criminal conviction on a prior application for licensure/certification/registration
- During any type of case investigated, licensee indicates to the investigator the desire to surrender, or individual mails in license during course of the investigation; offer Affidavit and Letter of Voluntary Surrender for indefinite suspension.

Authority to modify probation, extending time for compliance (such as payment of fines or assessments, or completion of remedial education)

Authority to take the following actions on initial and reinstatement applicants:

- NSA with sanction or terms consistent with another state
- NSA to fine, for failing to reveal a criminal conviction on a prior application for licensure/certification/registration
- Request withdrawal of application if disciplined in another jurisdiction

Close cases in the following circumstances:

- Insufficient evidence of a violation of law or regulation, or not rising to the level of disciplinary action by the Board

The Board of Nursing delegates to the Executive Director, professional discipline and COIN staff the authority to do the following.

Initiate the following COIN referrals:

- Individual referred to the Board for impairment issues, offer NSA for referral to COIN.
- Cases resulting from mandatory/self-reports of admission to hospital for mental health issues where there are no practice issues
- Cases involving a positive urine drug screen on duty for a substance not prescribed to the licensee.
- Pre-employment positive drug screen without evidence it has affected practice
- Possible impairment without evidence that it has affected practice

Issue NSA to:

- Reinstatement and comply with COIN when a lapsed licensee was under prior order to be in alternative to discipline program
- Refer for COIN participation for individuals with impairment issues
- Reinstatement and comply with COIN when a lapsed licensee was under prior order to be in alternative to discipline program
- To refer for COIN participation for individuals with impairment issues

September 6, 2023

Board of Nursing Delegated Authorities For Committees, Executive Director, and Board Staff

BACKGROUND FOR DELEGATION

Board of Nursing (Board) regulates more than 40,000 nurses and nursing assistive personnel. To facilitate the work of the Board, several basic functions are delegated to the following entities to carry out the Board's work during the interim periods between the Board's meetings:

- 1) Board Committees, made up of 3-4 Board members:
 - a. Discipline Committee – meeting every other month in between Board meetings
 - b. Education Committee – meeting every other month in between Board meetings
 - c. Law and Regulation Committee – convened and meeting as needed

- 2) Executive Director of the Board. The authority delegated to the Executive Director may be supported by staff of the Board such as the Health Licensing Specialists, Nurse Specialist for Education, and Nurse Specialist for Discipline. The Executive Director is also supported by the “Complaint Review Committee” (CRC), made up of staff, i.e. Executive Director, Nurse Specialist for Discipline, Board Investigator, and Board Attorney, and may be supplemented by Compliance Officer or other board staff generally involved with disciplinary matters (including reviews of criminal background check). The CRC generally meets monthly at the Executive Director's convenience and schedule.

The authority delegated to the Executive Director (and staff) involves **simple, routine actions and decisions** that involve no controversy or are based on clear guidelines given by the Board. The actions and decisions made in this manner should be placed on the Board's agenda as Consent Agenda to ensure that the Board is informed of actions and decisions taken on its behalf.

The authority delegated to the Committees involves **discretionary actions and decisions** that are more complicated and may involve the weighing of multiple factors. Some of the delegated authority is final – meaning the decision of the Committee may be immediately implemented; whereas some delegated authority permits the Committee to consider the full matter and make a recommendation for final decision or action to the Board. The latter will be an agenda item for Board action, while the former will be on the agenda as Consent Agenda.

September 6, 2023

DELEGATED AUTHORITIES

Authorities Delegated to the Committees of the Board

The Board of Nursing delegates to the **DISCIPLINE COMMITTEE** the authority to:

- Review complaints¹ related to a nursing licensee or nursing assistive personnel to determine the best response and direct the staff to implement the response.

Responses may include any of the following:

- Closing the complaint for lack of violation
- Issuing an Order to Answer (OTA)²
- Requesting that the Department of Health (DC Health) issue a summary suspension
- Requesting an investigation, including obtaining documents
- Determining and entering into a private or public resolution of a complaint – this means determining the best NSA³ or Consent Order⁴ that best fits the matter at hand.
- Determining that a formal disciplinary action is required⁵

¹ “Complaints” is used generally to include any information received or obtained from any source that indicates a possible violation of the laws or regulations related to the practice of nursing and practice by nursing assistive personnel.

² OTA requires applicant/licensee to respond to the complaint in writing. The regulation requires that applicant/licensee respond within 10 days. Failure to do so is a violation of the HORA and may be ground for disciplinary action.

³ NSA is a “negotiated settlement agreement.” This is a private settlement agreement with an applicant or licensee based on terms that are determined to best address the matter at hand. For example, the Discipline Committee may decide that an applicant with more than 2 DUIs should be first evaluated by COIN (or practitioner approved by COIN) before the final decision on whether a license should be issued and if so under what terms.

⁴ A Consent Order is a public agreement with an applicant for licensee. It is similar to an NSA in that it is a mutual agreement to resolve an issue at hand. But a Consent Order must be made public and reported to the National Practitioner DataBank (NPDB). This is used when an NSA is not appropriate because there is need to inform the public – usually since health and safety of patients, clients, or the public is involved.

⁵ A formal disciplinary action is an action taken where a settlement is not possible or not desirable. Frequently, this happens after a settlement (either public or private) is proposed and offered to an applicant/licensee, who declines it and so to pursue the final outcome of a complaint, the Board must initiate a formal disciplinary action. This is initiated by the issuance of a Notice of Intent to Take Disciplinary Action (NOI) (An NOI is drafted by the Office of the Attorney General (OAG), signed by the Board Chair, and “served” on the applicant/licensee who is legally entitled to request a hearing. A hearing may be conducted by the Board or referred to the Office of Administrative Hearing (OAH). If a hearing is referred to the OAH, the OAH judge hearing the case can only issue a recommended decision, which comes to the Board for consideration. The Board may adopt the

September 6, 2023

- Conduct a settlement conference with an applicant/licensee as the Committee deems appropriate
- Any other decision or action that has been delegated to the Executive Director and staff

The Board of Nursing delegates to the EDUCATION COMMITTEE the authority to:

- Review annual reports from nursing education programs, with staff recommendation, and make recommendation to the Board for approval or other actions
- Review NAP Program applications, with staff recommendation, and make recommendation to the Board for approval or non-approval
- Review requests from education programs and make recommendation to the Board
- Consult with staff on education program-related issues and make recommendation to the Board
- Review and approve waiver of faculty members' qualifications

The Board of Nursing delegates to the Executive Director, with support of licensing and other staff, the authority to:

- Review and approve licensing applications – limited to “clean” applications (meeting all licensure requirements and with clear criminal background check results).
- Communicate with licensees, applicants, or any other stakeholders to respond to questions and requests for information.
- Close applications that are incomplete and have been pending for more than 90 days.

The Board of Nursing delegates to the Executive Director, with support of the Nurse Specialist for Education and other staff, the authority to:

- Approve curriculum changes in nursing education programs
- Accept annual reports from nursing education programs and request additions or clarifications as needed and compile the reports and present to the Education Committee with staff recommendation
- Evaluate NAP Program applications and make recommendations to the Board or Education Committee

recommended decision in full or issue its decision (based on the record that was developed by the OAH judge) which may be similar or entirely different from the OAH's recommended decision.

September 6, 2023

- Approve content of action plans and to request additional information for clarification if needed
- Determine education equivalency for foreign educated nurses and applicants for licensure by examination from educational institutions external to District of Columbia
- Review and approve continuing education for District of Columbia licensed nurses.

The Board of Nursing delegates to the Executive Director, with the support of the Nurse Specialist for Discipline, the CRC, and any other staff, the authority to:

- Review complaint and determine the appropriate action (ranging from closing for no violation to the specific actions listed below)
- Issue Order to Answer
- Request investigations
- Review and resolve criminal background issues in accordance with the Board's approved policy.
- Offer private NSA to applicant/licensee in compliance with the Board's Disciplinary Priorities and in the following circumstances:
 - Discipline cases for all occupations regulated by the Board of Nursing for sanctions consistent with the approved D.C. Board of Nursing Disciplinary Action Priorities and as delegated in this document.
 - Licensee who does not reveal prior criminal conviction (Board of Nursing is aware of conviction on another application, or learns of conviction from another source), offer NSA to fine and approve for licensure.
 - Action taken by another state board of nursing, staff is authorized to recommend an NSA with reciprocal action or refer licensee to the Discipline Committee or the Board.
 - Practicing on expired license/certificate
 - Single medication error with no patient harm
 - Continuing Education Violations
 - Single incident of exceeding scope of practice – accepting assignment or agreeing to do a task without adequate training obtained or competency maintained and no patient harm
 - During any type of case investigated, licensee indicates to the investigator the desire to surrender, or individual mails in license during course of the investigation; offer Affidavit and Letter of Voluntary Surrender for indefinite suspension.

September 6, 2023

- Authority to modify some terms of NSAs and Consent Orders, such as extending time for compliance (e.g. more time to complete remedial education or approving a payment plan), approving remedial courses
- Close cases where there is insufficient evidence of a violation of law or regulation, or not rising to the level of disciplinary action by the Board

The Board of Nursing delegates to the Executive Director, professional discipline and COIN staff the authority to do the following.

Initiate the following COIN referrals:

- Individual referred to the Board for impairment issues, offer NSA for referral to COIN.
- Cases resulting from mandatory/self-reports of admission to hospital for mental health issues where there are no practice issues
- Cases involving a positive urine drug screen on duty for a substance not prescribed to the licensee.
- Pre-employment positive drug screen without evidence it has affected practice
- Possible impairment without evidence that it has affected practice

Issue NSA to:

- Reinstate and comply with COIN when a lapsed licensee was under prior order to be in alternative to discipline program
- Refer for COIN participation for individuals with impairment issues

California Medical Association

September 22, 2022

Area(s) of Interest: Advocacy Medical Board of California

SACRAMENTO, CA — Governor Gavin Newsom signed Assembly Bill 1636 today, sponsored by the California Medical Association (CMA) and authored by Assembly member Akilah Weber, M.D., to preserve the integrity of the medical profession by ensuring physicians convicted of sexual assault with a patient lose their license with no ability for it to be reinstated.

“Nothing is more fundamental to the California Medical Association and the integrity of the medical profession than protecting patients and the sanctity of the physician-patient relationship,” said CMA President Robert E. Wailes, M.D. “We thank the Governor for signing AB 1636 to ensure the Medical Board of California has the tools they need to protect patients and keep any physician who violates a patient’s trust from practicing medicine.”

“AB 1636 will preserve confidence in the medical profession by ensuring physicians convicted of sexual misconduct would automatically have their license revoked and cannot acquire or have it reinstated,” said Assembly member Weber. “The heinous behavior of abusing patients goes against everything physicians stand for and should not be tolerated. This legislation is essential to protect patients and the sanctity of the physician-patient relationship.”

In December 2021, the Los Angeles Times reported that at least 10 California physicians had regained their licenses after investigations of sexual misconduct with their patients. In all reported instances, the physicians either had their licenses revoked or surrendered their licenses. These physicians subsequently petitioned the Medical Board of California for license reinstatement. According to the published report, the medical board reinstated 10 of 17 (59%) of the petitioning physicians.

Currently, a person can petition the medical board for reinstatement three years after having their license revoked or surrendered for unprofessional conduct. The medical board can also specify in a revocation order that a physician may file a petition for reinstatement after two years.

This bill removes the discretion from a medical board to give or reinstate a physician or surgeon who lost their license due to sexual misconduct with a patient. This bill would also deny a physician’s and surgeon’s certificate to an applicant who has been or is required to register as a sex offender.