

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 | | |
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| 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 style="text-align: center;">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 style="text-align: center;">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 style="padding-left: 20px;">A. Board Chair Report -Meedie Bardonille</p> <p style="padding-left: 20px;">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 |

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|---|--------|----------------------|
| 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 style="text-align: center;"><i>Motion to approve the decision made by the educational committee, excluding/removing UDC, by unanimous vote</i></p> <p style="text-align: center;"><u>SEE BELOW</u></p> | | Decision |

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| <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> | |
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| | <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](#)).

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| | <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. | |
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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'.

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| OS-23-07-08 | <p><u>MOTION TO CLOSE</u></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><u>MOTION TO ADJOURN</u></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 |
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| 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 issue