

Arizona State Board of Nursing

Janice K. Brewer
Governor

Joey Ridenour
Executive Director



Board Meeting Minutes

The Special meeting of the Arizona State Board of Nursing convened at 9:01 a.m. Friday, February 26, 2010, in the Board of Nursing Board Room, Suite 200, 4747 N. 7th Street, Phoenix, Arizona, with Kathy Malloch, PhD, MBA, RN, FAAN, President, presiding.

BOARD MEMBERS PRESENT:

Kathy Malloch, PhD, MBA, RN, FAAN, President (telephonic)
Denise Link, PhD, WHCNP, FNAP, Vice President (telephonic)
Kathy Scott, RN, MPA, PhD, FACHE, Secretary (telephonic)
Theresa (Terri) Berrigan, LPN, Member (telephonic)
Kathryn L. Busby, JD, Member (telephonic)
E. Gary Gum, MSN, RN, FCN, Member
Patricia Johnson, LPN, Member
M. Hunter Perry, Member (telephonic)

LEGAL COUNSEL:

Seth Hargraves, Assistant Attorney General
Kim Zack, Assistant Attorney General
Nina Zimmerman, Assistant Attorney General

STAFF:

Joey Ridenour, RN, MN, FAAN, Executive Director
Valerie Smith, RN, MS, Associate Director of Investigations
Susan Barber, RN, MSN, Nurse Practice Consultant/Hearings
Amy Foster, Senior Investigator
Connie Linck, RN, MN, Nurse Practice Consultant/CANDO
Mary Rappoport, RN, MN, Nurse Practice Consultant
Barbara Melberg, Legal Secretary

I. Call to Order

The meeting was called to order at 9:01 a.m., Friday, February 26, 2010.

The following Board members were present telephonically: Malloch, Link, Berrigan, Busby, and Perry. The following Board members were present in person: Johnson and Gum. Scott joined the meeting telephonically at 9:03 a.m.

Malloch presided.

Malloch welcomed members of the audience and explained the procedure for addressing the Board.

II.A. Rehearing or Review of Board Decision Rendered at the January 27, 2010 Board Meeting pursuant to A.A.C. R4-19-608(D)

II.A.1. Jane Louise Hughes RN087419 Barber

Busby recused herself to avoid the appearance of impropriety.

The Board was represented by Christopher Munns, Assistant Attorney General, Division of Solicitor General.

Barber addressed the Board.

Attorney Terry Hall was present and addressed the Board. Hughes was present and available for questions.

Johnson moved, Perry seconded, to review prior Board decision based on reasons stated by the State. The motion carried with seven in favor and one abstained.

Barber addressed the Board.

Attorney Terry Hall addressed the Board.

Johnson moved, Gum seconded, to modify the ALJ’s decision due to insufficient penalties to monitor Hughes appropriately and for the purpose of consistency in the Board’s previous practices in monitoring respondent’s effectively, to amend the stipulations to include: drug testing one time per month, notification of practice settings, quarterly performance evaluations, registry/traveling nurse/float pool prohibited, and on site supervision. The motion carried with seven in favor and one abstained.

	VOTE	Johnson, Patricia Member	Perry, Hunter Member	Scott, Kathy Secretary	Malloch, Kathy President	Link, Denise Vice Pres	Berrigan, Terri Member	Gum Gary Member	Busby, Kathryn Member
YES	7	X	X	X	X	X	X	X	
NO	0								
ABSTAIN	1								X
ABSENT	0								

IV. Board Reports for Discussion, Information, Staff Direction and/or Decision

IV.A. Executive Directors Report – Ridenour

IV.A.1. 2010 Legislative Session: Bills Impacting Nursing Regulation: HB2670 Continuing Education Requirements for Nurses; CRNA’s; Others

Legislative liaison, Greg Harris, reported on House Bill 2670, proposed by Representative Matt Heinz. The legislative Health Committee recently met to consider the measure that would establish a continuing

education (CE) requirement for the Board of Nursing to implement, requiring all licensees and certificate holders to obtain continuing education as a means of addressing or measuring continued competence. The measure as initially introduced had a number of issues. A substantial amendment offered in the Committee addressed several issues, including questions as to how the Board would implement a new CE requirement. The measure received much discussion, especially relating to the existing practice requirement that is already a part of the Board's licensing requirement. There were also questions about existing data that supports the idea that CE would be beneficial, in addition to the practice requirement. The measure passed the Health Committee by a five to four vote. Representative Heinz has requested a meeting to continue to work on issues relating to this Bill. Harris stated that he had met with many of the Committee members before the Hearing. Harris signed in as "neutral and available to answer questions" on the bill, but didn't testify. The Arizona Nursing Association (AzNA) spoke against the Bill. They spoke most specifically about the impact of this new requirement on the Board's ability to perform its existing functions in light of the budgetary challenges the Board faces. AzNA also posed two questions that stem from that: given the practice requirement, would a CE requirement add value, and would the Board's attention be diverted away from existing functions if it had the responsibility to implement this requirement? The Committee vote being close, Harris felt that additional attention would be addressed on the questions that AzNA and the Committee members raised.

Dr Scott questioned if the Committee understood that the evidence doesn't support CE as demonstrating competence. Harris indicated that Representative Heinz's comments to the Committee conceded that the data was inconclusive, with data that offers support and non support to the idea that CE provides a benefit in terms of the continuing competence question. Harris stated that Joyce Benjamin addressed the Committee on that, referencing the recent IOM Report. This report has been provided to Representative Heinz and members of the Committee. Harris's assessment of the discussion among the Committee was that some recognized the Board has a practice requirement in place and the Board Chose that requirement in lieu of the CE requirement. The proponents seemed to discount the value of the practice requirement and felt that the Board should have a CE requirement as many other Nursing Boards/licensed professions do.

Ridenour stated that Representative Heinz referred to a comment made by Dr. Malloch regarding literature that demonstrates CE is a way to insure competency.

Malloch stated the only time we saw CE have a relationship with practice was when it was part of a certification process. Certified nurses have focused CE's that seem to have a link to practice.

Dr. Link commented that CE can be a way of establishing continuing competency in connection with a clinically based exercise. Malloch concurred that the whole certification process requires multiple demonstrations of the ability to be a safe practitioner. Link reported on a recent AzNA meeting discussion in which AzNA

Link reported on a recent AzNA meeting discussion in which AzNA clearly stated that they weren't opposed to people continuing in their education, but that the usefulness of the Bill was in question.

Harris advised that the next step was to converse with AzNA and Committee members, since AzNA's testimony was presented before all parties had time to absorb the amendment. Further, it is necessary to understand precisely what Representative Heinz hopes to achieve, since some employers on their own or because of an accreditation requirement, may already have CE requirements in place. Harris noted a question was raised regarding the impact on nurses working outside of a hospital/institution that's subject to oversight by an accreditation organization. Another question related to the impact on the

school nurse community. Would this make it more difficult for schools to attract nurses to work in schools when resources are inadequate?

Malloch inquired if Harris or Ridenour would compile a list of questions for the Board, from Representative Heinz’s perspective, for the Board’s response in the upcoming meeting.

Johnson asked if it would be helpful to have a list of other employers, such as physician’s offices/insurance companies, as opposed to acute and long term care facilities, which have requirements for mandatory education. Scott commented that people may move around to avoid CE in their field and that the real issue is whether CE is a true demonstration of competence. Link agreed with Scott and stated that if the public has concerns about continuing competency it needs to be evidence based and not because other states are doing it. Link suggested adding nurse practitioners to the group and stated that other organizations have a CE requirement that can be met in a variety of ways such as mentoring students, teaching, or writing a journal article. Link further stated that a self assessment would be helpful to identify a person’s areas of weakness.

Malloch requested this topic be placed on the March 2010 Board meeting Agenda, and inquired if it was possible for Board staff to acquire information on rates of discipline in states having continuing competence requirements compared to Arizona rates of discipline.

Ridenour asked the Board if they would choose to remain neutral until all issues are worked out. She explained that the Board needs to support, oppose, or remain neutral on HB 2070.

Harris suggested the Board remain neutral on the Bill because the Board’s message is that they support continued competence and that they have a tool in place that they believe meets that requirement. It is unknown if this additional tool will help that effort. If they took a vote against the Bill, Harris felt it would create confusion about the Board’s support for continued competence.

Ridenour stated that since there’s more to work out for amendments that a neutral position would maintain discussions versus the supporters of the Bill thinking the Board has already made a decision. After further discussion the Board decided to take a no position on HB 2670.

III.A. RN/LPN/CNA Investigative Reports

III.A.1. Renee Amaya RN133880 (Linck)

Linck addressed the Board with a technical correction to the investigative report, and a clarification to the stipulations for hair testing within 30 days, within 6 months and one time prior to completion of suspension, and quarterly thereafter during the probation phase. Johnson moved, Scott seconded, and it was unanimously carried, based upon the findings of fact and statute/rule violations identified in the investigative report, offer a Consent Agreement for 24 months stayed revocation with the license suspended during the first 12 months and on stayed revocation/probation the second 12 months, followed by 24 months standard probation, including the attached stipulations. If not signed within 30 days issue Notice of Hearing based upon information contained in the investigative report.

	VOTE	Johnson, Patricia Member	Perry, Hunter Member	Scott, Kathy Secretary	Malloch, Kathy President	Link, Denise Vice Pres	Berrigan, Terri Member	Gum Gary Member	Busby, Kathryn Member
YES	8	X	X	X	X	X	X	X	X
NO	0								
ABSTAIN	0								
ABSENT	0								

III.A.2. Carmen Huerta RN Endorsement (Rappoport)

Busby moved, Perry seconded, and it was unanimously carried, upon meeting all requirements, grant licensure and issue a Letter of Concern for a 1997 felony conviction for welfare fraud in the Superior Court, District Court of the County of Los Angeles, California, which resulted in a five year probation which was successfully completed on or about June 12, 2002.

	VOTE	Johnson, Patricia Member	Perry, Hunter Member	Scott, Kathy Secretary	Malloch, Kathy President	Link, Denise Vice Pres	Berrigan, Terri Member	Gum Gary Member	Busby, Kathryn Member
YES	8	X	X	X	X	X	X	X	X
NO	0								
ABSTAIN	0								
ABSENT	0								

III.A.3. Scott Willis Johnson RN151542 (Rappoport)

Johnson moved, Scott seconded, and it was unanimously carried, based upon the findings of fact and statute and rule violations in the investigative report, adopt the attached Notice of Charges.

IV. Board Reports for Discussion, Information, Staff Direction and/or Decision

IV.B. President’s Report – Kathy Malloch

**IV.B.1. Special Session Board Meeting Regarding Potential Summary Suspension:
Suggested Dates & Time for Week of March 1, 2010**

The Board discussed and set the date for a special session Board meeting regarding potential Summary Suspension for 8:00 a.m. March 5, 2010

V. Call to the Public

A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. The Board may ask staff to review a matter or may ask that a matter be put on a future agenda. Members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. A.R.S. § 38-431.01(G).

The Board dialogued with Mesa Community College nursing student in the audience.

VI. Adjournment

Scott moved, Gum seconded, and it was unanimously carried to adjourn the meeting.

The meeting adjourned at 10:23 a.m, Friday, February 26, 2010.

Kathy Malloch, PhD, MBA, RN, FAAN, President