



# Meeting Minutes

May 11, 2022

Physical location: Holiday Inn Express and Suites 3821 W Avera Dr, Sioux Falls, SD, 57108

**1. Call to Order and Roll Call** - President Carla Borchardt called the meeting to order at 8:35 A.M. Central.

Board Members Present: Darlene Bergeleen, Carla Borchardt, Deborah Bowar, Denise Buchholz, Rebekah Craddock, Kristin Gabriel, Nathan Hinker, Christi Keffeler, Lori Koenecke, Lois Tschetter, Jenna VandenBos.

Board Staff Present: Linda Young, Glenna Burg, Erin Matthies, Francie Miller, Lindsay Olson, Tessa Stob, Dawn Rye.

Counsel Present: Megan Borchert, General Counsel to the Board; Shelly Munson, Board Prosecutor.

Others Present: Rhonda Jackman, Cheryl Medearis, DeAnn Eastman-Jansen, Twyla Nordquist.

**2. Agenda Approval:** Motion by Tschetter to approve the May 11, 2022, agenda. Second by Gabriel. Motion carried.

**3. Approval of Minutes:** Motion by Keffeler to approve the February 9, 2022, minutes. Second by Bowar. Motion carried.

**4. Open Forum:** Borchardt provided the opportunity for guests to address the Board, no one requested to do so.

**5. Compliance:** the acronym “HPAP” represents “Health Professionals Assistance Program”.

a. Formal Hearing:

- Ryan Zappia SD R052764 requested a continuance of hearing for the November 2022 meeting to allow opportunity to prepare for the hearing per his legal counselor’s recommendation.

b. Compliance Committee Recommendations – Licensed: Miller explained the Board’s investigative and complaint process that conforms to requirements in SDCL 1-26 and 36-1C. Miller submitted the following recommendations from the Board’s Compliance Committee:

- Settlement Offer – Letter of Concern: Case #1A.R.; Case #2 L.H.
- Settlement Offer – Letter of Concern with Remediation: Case #3 M.W.; Case #4 J.F.; Case #5 D.P.;#6, D.R.
- Settlement Offer – Letter of Reprimand: Case #7 Joseph Bayner R032372 Case #8 Raquel Hickey R037096.
- Settlement Offer – Letter of Reprimand with Remediation: Case #9 Charles Hilding R052043; Case #10 Renata Maier R047745.
- Settlement Offer – Mandated Participation in HPAP: Case #11 S.G.;
- Settlement Offer – Stayed Suspension with Mandated Participation in HPAP: Case #12 Carly Wolberg, R031194; Case #13 Cheryl Hepp, R02422, CR000517; Case #14 Jill Hanson, R037768; Case #15 Kimberly Zaffuto-Furman, R053756; Case # 16 Kari Lesselyoung, R048379; Case #17 Brenda Berger, R024019.
- Settlement Offer – Reinstatement with Mandated Participation in HPAP: Case #18 Emily Luxem R05296
- Settlement Offer – Voluntary Surrender: Case #19 Shari Schreiner R051554.
- Proposed Order for Reinstatement: Case #20 Pamela Left Hall Bull R031973.

Motion by Tschetter to accept the recommendation of the Compliance Committee as presented and outlined in the Compliance Committee Consent Agenda for licensed nurses. Second by Koenecke. Motion carried.

Bergeleen	Recuse	Buchholz	Yes	Hinker	Yes	Tschetter	Yes
Borchardt	Recuse	Craddock	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Yes	Votes: 9 Yes	

c. Dismissal Reporting – Licensed: Miller reported that there were no complaints dismissed.

d. Compliance Committee Recommendations – Registrants: Stob submitted the following recommendations from the Compliance Committee:

- May Register When All Registration Requirements are Met: Case #1 C.I.
- Letter of Concern: Case #2 M.V.
- Voluntary Surrender: Case #3 Shirley Worden; Case #4 Debbie Suter.
- Letter of Concern for Working on Lapsed Registration greater than 90 days, first offense, with no other concerns: Case #1 K. W., Case #2 L.H., Case #3 A.R., Case #4 A.M., Case #5 K.S

Motion by Craddock to accept the recommendations of the Compliance Review Committee as presented and outlined in the Compliance Committee Consent Agenda for Registrant. Second by Tschetter. Motion carried.

<sup>1</sup>All motions taken by roll call, unless otherwise stated. Unanimous motions with all “Yes” votes are recorded as “motion carried”.

Bergeleen	Recuse	Buchholz	Yes	Hinker	Yes	Tschetter	Yes
Borchardt	Recuse	Craddock	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Yes	Votes: 9 Yes	

e. Additional Compliance:

1. Miller presented background on Heather Benson, CR000895. BON’s HPAP provided a letter of support for Benson’s reinstatement. Motion by Keffeler to reinstate the CRNA license of Heather Benson; SD CR000895. Second Bowar. Motion carried.

Bergeleen	Yes	Buchholz	Yes	Hinker	Yes	Tschetter	Yes
Borchardt	Yes	Craddock	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Yes	Votes: 11 Yes	

2. Stob and Munson presented background on Misty Aguilera, M004270. Aguilera received a fourth DUI. Motion by Craddock to summarily suspend the unlicensed medication aide registration of Misty Aguilera M004270. Second by Hinker. Motion carried.

Bergeleen	Recuse	Buchholz	Yes	Hinker	Yes	Tschetter	Yes
Borchardt	Recuse	Craddock	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Yes	Votes: 9 Yes	

6. **HPAP Quarterly Report:** Young presented the HPAP Quarterly Report; 91 participants were enrolled in March 2022 for monitoring of substance use or mental health related issues.
7. **Financial Report:** Matthies presented the FY 22 income and expense statement. Income is based off renewal and licensure fees. Scholarship Fund applications are due June 1, 2022 and will be paid out after the next board meeting. Motion by Gabriel to approve the financial report as presented. Second by Tschetter. Motion carried.
8. **Executive Session to Prepare for HPAP Contract Negotiation:** Young reported on the status of the HPAP RFP that was published on January 31, 2022. The contract was awarded to Midwest Health Management Services (MSHMS).

Motion by Tschetter to move into Executive Session, pursuant to SDCL 1-25-2 (4), for purpose of preparing for contract negotiations. Second by Vanden Bos. Motion carried. The Board went into Executive Session at 9:38 a.m.

Motion by Tschetter to move out of Executive Session. Second by Hinker. Motion carried. The board moved out of Executive Session at 10:35 a.m.

Motion by Keffeler to contract with MWHMS to operate the Board’s HPAP, according to contract requirements of the state, and as proposed in MWHMS’s RFP for fiscal years 2023, 2024, and 2025 for a fixed annual amount of \$3000 per participant, or approximately \$300,000 annually. The Board’s share of participation costs, paid annually to MWHMS will be for fiscal year (FY) 2023, \$200,000, for FY 2024, \$150,000, and for FY 2025, \$100,000 . Second by Koenecke. Motion carried.

9. **Licensure Operations**

- a. **Licensed Report:** Matthies reported that as of April 2022, the Board had 19,353 licensed registered nurses, 2,671 licensed practical nurses, 54 certified nurse midwives, 1,796 certified nurse practitioners, 53 clinical nurse specialists, and 512 certified registered nurse anesthetists.
- b. **Policy for Administrative Fine for Lapsed Licenses:** Young presented the proposed policy for adoption by the board to approve the Compliance Administrator to impose an administrative fine, pursuant to SDCL 36-1C-5, on nurses who practice on a lapsed nursing license, which is a violation of SDCL 36-9-49(9), 36-9-68(5), or 36-9A-35(5). The policy will impose a fine of \$100 for practicing 91-365 days on a lapsed license; \$200 for 366-730 days; and \$300 for 731 or more days (beyond 2 years). Nurses will have the option to appeal the fine; if so, the Compliance Administrator will follow the contested hearing process as required in SDCL 1-26.

Motion by Craddock to adopt the policy, as presented, to authorize the board’s administration to impose an administrative fine upon the licensee who has worked on a lapsed license. Second by Koenecke. Motion carried.

- c. **RN and PN NCLEX Practice Analysis 2021:** Young presented the report from the National Council of State Boards of Nursing (NCSBN). Their practice analysis on the NCLEX RN and PN licensure examinations, conducted every three years, revealed that both exams are psychometrically sound and legally defensible. Boards can be assured that the exams measure entry level knowledge for licensure purposes.

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**10. Nursing Education:**

- a. Nursing Education Committee (NEC) Recommendations: Burg submitted the following recommendations from the NEC:
1. Grant interim approval status for the University of South Dakota’s (USD) DNAP program with one year exemption of the 10% teaching workload requirement for the nursing program administrator. Report to Board in one year regarding workload status.
  2. Grant approval of Shauna Rich Jacobson, DNAP as administrator of DNAP program at the USD.
  3. Grant approval of South Dakota State University’s (SDSU) reorganization plan for the addition of a post-graduate Adult Gerontology Acute Care Nurse Practitioner certificate.
  4. Grant approval of SDSU’s reorganization plan for a dual degree program with a BS in global health from Northern State University and an accelerated BSN from SDSU.
  5. Grant approval of Robin White, MSN, RN, as administrator of the AD RN program at Oglala Lakota College.
  6. Accept notification of the following curriculum changes:
    - a. SDSU – BSN program
    - b. Mitchell Technical College – AD RN program
    - c. Augustana University – Adult-Gerontology Acute Care Nurse Practitioner, Adult-Gerontology Clinical Nurse Specialist, and post master’s certificates
    - d. Accept notification of the following accreditation notices:
      - i. Augustana University – Notification of HLC approval for graduate nursing programs
      - ii. Southeast Technical College – Notification of ACEN candidacy for PN program
    - e. Informational Only – Resignation of Presentation College’s program administrator.

Motion by Cradduck to accept the recommendations of the Education Committee as presented in the Education Consents Agenda. Second by Gabriel. Motion carried.

Bergeleen	Yes	Buchholz	Yes	Hinker	Yes	Tschetter	Recuse
Borchardt	Yes	Cradduck	Yes	Keffeler	Recuse	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Yes	Votes: 9 Yes	

- b. Sinte Gleska University (SGU) Survey Visit Report and Approval Status: Burg presented the results of the April 13-14, 2022 survey visit report of the SGU practical nursing program.

Motion by Tschetter to move into Executive Session, pursuant to SDCL 1-25-2 (4), for purpose of consulting with legal counsel. Second by Bowar. Motion carried. The Board went into Executive Session at 3:20 p.m.

Motion by Buchholz to move out of Executive Session. Second by Cradduck. Motion carried. The board moved out of Executive Session at 4:05 p.m.

Motion by Tschetter to place SGU’s practical nursing program on probationary status and notice the university that they have one year to demonstrate correction of the deficiencies. At the expiration of the probationary period, May 12, 2023, if the program has failed to correct the deficiencies to the Board’s satisfaction and has not implemented the Board’s recommendations in the written survey report, the Board may withdraw approval after a hearing in accordance with SDCL Chapter 1-26. An additional recommendation is that the program hire a nursing education consultant. By August 1, 2022, prior to admitting students Fall 2022, SGU shall submit to the Board a nursing faculty workload policy and evidence that the program has employed qualified faculty to meet didactic and clinical requirements. The Board must be notified at any time if there are faculty changes. Second by Bowar. Motion carried.

Bergeleen	Yes	Buchholz	Yes	Hinker	Yes	Tschetter	Yes
Borchardt	Yes	Cradduck	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Absent	Votes: 10 Yes	

- c. SGU Request: Approval of Program Administrator: Burg presented request to approve Rhonda Jackman as SGU nursing program administrator.

Motion by Keffeler to approve Rhonda Jackman, MSN, RN as the nursing program administrator at SGU and grant one year exemption of the 10 percent teaching workload requirement for the nursing program administrator. Second by VandenBos. Motion carried.

Bergeleen	Yes	Buchholz	Yes	Hinker	Yes	Tschetter	Yes
Borchardt	Yes	Cradduck	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Absent	Votes: 10 Yes	

<sup>1</sup>All motions taken by roll call, unless otherwise stated. Unanimous motions with all “Yes” votes are recorded as “motion carried”.

**11. Nursing Practice:**

- a. Unlicensed Dialysis Technician (UDT) Pilot Project Update: Olson presented an overview of preliminary data. A total of 6 South Dakota dialysis centers are participating with 11 UDTs. Data revealed 6,060 CL tasks were performed by the UDTs since February 2021: 2,283 CL catheter initiations; 2,061 discontinuations; and 1,716 aseptic dressing changes. There have been no adverse outcomes reported. Infection control data from participating facilities support safe outcomes and dialysis stakeholders have voiced their support of continuing to allow nurses to delegate CL tasks to dialysis technicians.
- b. Advisory Opinion Request: Assignment and Supervision of Nursing Tasks to Medical Assistants by a Registered Nurse: Olson explained that in 2021 the legislature repealed SDCL chapter 36-9B on Medical Assistants. Following the repeal, the Board of Nursing received several inquiries regarding the use of medical assistants in various practice settings, including the South Dakota Department of Health’s (DOH) Correctional Services. The DOH requested clarification and guidelines to allow medical assistants to continue to practice to the full extent of their education and training under the supervision of registered nurses.

Following careful consideration by the board, Keffeler moved to adopt the following advisory statement. Second by Buchholz. Motion carried.

*Assignment and Supervision of Nursing Tasks to Medical Assistants by a Registered Nurse:*

Practice statement: *It is within the scope of a registered nurse (RN), pursuant to SDCL 36-9-3 (7) (11), to assign and supervise nursing tasks to medical assistants in ambulatory or outpatient settings.*

Purpose: *The following guidelines are intended to promote safe assignments of nursing tasks to medical assistants.*

Guidelines: *A registered nurse may assign nursing tasks and supervise a medical assistant provided:*

- *The agency allows a medical assistant to provide nursing services in the practice setting;*
- *The medical assistant is certified with the American Association of Medical Assistants (AAMA) or American Medical Technologists (AMT);*
- *Assigned nursing tasks are consistent with Commission on Accreditation of Allied Health Education Programs (CAAHEP) standards, with the exclusion of IV therapy;*
- *The medical assistant has demonstrated competency to perform the assigned nursing tasks;*
- *The supervising registered nurse is readily available either in person or via electronic communication.*

**12. SD Center for Nursing Workforce (CNW):**

- a. Nurse Preceptor Pathway Project: Olson presented an overview of the CNW’s project involving the development of standardized nurse preceptor training course modules. Academic and practice partners are collaborating with the CNW on this project; anticipated date of completion is fall 2022.
- b. Co-sponsorship of South Dakota Association of Healthcare Organization’s (SDAHO) Rural Health Leaders Conference: Olson presented a request from SDAHO for \$4,000 to co-sponsor SDAHO’s 2022 Rural Health Leaders Conference to be held July 12-13, convening nurses and stakeholders. The conference will present current workforce trends and host a World Café on healthcare workforce issues and solutions.

Motion by Cradduck to approve \$4000 to co-sponsor the SDAHO Rural Health Leaders Conference paid through the CNW. Second by Koenecke. Motion carried.

Bergeleen	Yes	Buchholz	Recuse	Hinker	Yes	Tschetter	Yes
Borchardt	Yes	Cradduck	Yes	Keffeler	Yes	VandenBos	Yes
Bowar	Yes	Gabriel	Yes	Koenecke	Yes	Votes: 10 Yes	

**13. Policy: Formal Hearing to Adopt Rules in ARSD 20:48:** Hearing held at 1:00 PM. Young reported on the Legislative Research Council’s (LRC) recommended corrections to the proposed rules to conform with form, style, clarity, and legality. As required under SDCL 1-26-4(4), she advised accepting the LRC’s corrections. Nordquist provided oral testimony in support of proposed rules.

Motion by Tschetter to adopt the proposed rules, numbered § 20:48:04:02.04, and Chapters 20:48:04.02, and 20:48:16, as revised by the LRC for form, style, clarity, and legality. Second by Keffeler. Motion carried.

**14. Board Development: Annual Review of Conflict of Interest and Open Meeting Requirements:** Borchert presented a review of South Dakota’s open meetings and conflict of interest laws and requirements.

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**15. External Meeting Reports:**

- a. Nurse Licensure Compact (NLC) Administrators Midyear Meeting: Young attended and provided a report on the status of the compact.
- b. National Council of State Boards of Nursing (NCSBN) Midyear Meeting: Young and Borchardt attended; they presented a summary.
- c. NCSBN APRN Roundtable: Olson attended; she presented an overview of topics presented.
- d. NCSBN IT/Operations Conference: Young provided a report.

**16. Travel Approval Request:**

Motion by Tschetter to approve the following travel request. Second by Bowar. Motion carried.

- a. National Forum of State Nursing Workforce Centers Annual Conference: June 20-22, 2022, Las Vegas, NV (up to 1)

**17. Announcements:**

- a. Board Meetings: August 10, 2022 meeting to be held in Sioux Falls. The meetings on November 9, 2022 and February 8, 2023 will be held via Zoom. Additional information can be found on the state's website: <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=68>.
- b. NCSBN Annual Meeting: August 17-19, 2022.

Motion to adjourn by Gabriel. Second by Hinker. Motion carried in unanimous voice vote. Meeting adjourned at 4:10 P.M.

<sup>1</sup>All motions taken by roll call, unless otherwise stated. Unanimous motions with all "Yes" votes are recorded as "motion carried".