PUBLIC SESSION MINUTES
STATE BOARD OF MEDICAL EXAMINERS OF SOUTH CAROLINA
February 6-7, 2012

Board Meeting
Synergy Business Park
The Kingstree Building
110 Centerview Dr., Room 108
Columbia, South Carolina

MEETING CALLED TO ORDER

Dr. Louis E. Costa, II, President of the Board, called the regular meeting of the S.C. Board of Medical Examiners to order at 8:00 A.M., on Monday, February 6, 2012, at 110 Centerview Drive, Room 108, Columbia, South Carolina, with a quorum present. Dr. Costa announced the meeting was being held in accordance with the Freedom of Information Act by notice emailed to The State newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the Board's website and on the bulletin boards located at both of the main entrances of the Kingstree Building where the Board office is located.

Board members present for this meeting were:
Dr. Louis E. Costa, II, President, of Charleston
Dr. Stephen R. Gardner, of Greenville
Dr. David deHoll, of Iva
Dr. Jim Chow, of Columbia
Dr. James L. Hubbard, of Rock Hill
Dr. Robert T. Ball, Jr., of Charleston
Dr. Robert E. Turner, of Florence
Dr. Jeff Welsh, of Columbia
Dr. Timothy Kowalski, of Columbia

Members of the S.C. Department of Labor, Licensing and Regulation (LLR) staff participating at various times in the meeting included:
Bruce F. Duke, Board Administrator
April Dorroh, Program Assistant
Brenda Eason, Administrative Assistant
Ieshia Watson, Administrative Assistant
Laura McDaniels, Administrative Assistant
Kathy Burgess, Administrative Assistant
Connie Flannery, Administrative Assistant
Latonea Jones, Administrative Assistant

Office of General Counsel
Patrick Hanks, Assistant General Counsel
Erin Baldwin, Assistant General Counsel
Suzanne Hawkins, Assistant General Counsel

Office of Advice Counsel
Sheridon Spoon, Advice Counsel
Dean Grigg, Advice Counsel

REVIEW/APPROVAL OF AGENDA

An agenda for this meeting was reviewed and approved.

REVIEW/APPROVAL OF MINUTES FROM OCTOBER 31-NOVEMBER 1, 2011 BOARD MEETING:

After considering recommendations, additions, deletions and corrections, a motion was made to approve the minutes by Dr. Gardner. Dr. Ball seconded the motion and the minutes were unanimously passed.

WHITE PAPER ON ADVANCED PRACTICE REGISTERED NURSES and ADVISORY OPINIONS #56 AND #58

The Board heard testimony from various interested individuals pertaining to the topics listed above and passed by the South Carolina Board of Nursing.

Ms. Stephanie Burgess, PhD, family nurse practitioner, told the Board the White Paper originated from the Advanced Practice Committee (APC) to the Board of Nursing and was the result of multiple data and research on Advanced Practice Registered Nurses (APRN) practices and outcomes. She stated the Committee was concerned about barriers to health care and the possible impending influx of patients that may enter the health care system in the next two years.

Ms. Burgess added that she thought the White Paper contained a lot of barriers for nurse practitioners to practice that could be tied to the supervisory relationship, particularly as it relates to the supervisory ratio and the distance requirement as established by law. She also stated that a barrier to care was the restriction of APRNs not being able to prescribe schedule 2 narcotics.

Dr. Costa stated that Ms. Sylvia Whiting, PhD, past President of the Nursing Board, and co-author of the White Paper had indicated to him that the supervisory relationship was valuable, integral, and imperative for optimal care in the State. He added that improvements in access to care could be made without removing the supervisory relationship between physicians and APRNs.

Dr. Kowalski stated that he has not seen any changes between the last revision of the Medical Practice Act, which had input from all interested parties, and now that should allow APRNs to practice independently.

Dr. Ball asked if there was any evidence that having the supervisory relationship impeded the access to and quality of care.

Ms. Burgess stated that APRNs were unable to order disability stickers, because the law requires this to be done by a physician.

Dr. Gardner stated the physician could review the affected patient's record and fill out the appropriate form to enable the patient to receive the disability sticker and that there is not

an inability for the patient to receive a disability sticker, but an inability for the APRN to unilaterally issue the sticker.

Dr. Gardner added that ordering durable medical equipment, prescribing home health care, and certifying disabilities are expensive items that weigh heavily on our social resources and asked if Ms. Burgess wanted the authority independent of a physician to order these things.

Ms. Burgess answered in the affirmative.

Scott Hulstrand, General Counsel with the South Carolina Medical Association (SCMA), told the Board that the SCMA's Board and inner-specialty council have a unanimous position on the White Paper. First, they are unanimous with their respect for the nursing profession and what nurses bring to the healthcare profession. Second, they are unanimous in believing that the current supervisory structure that is in place in the law needs to remain in place. Third, they are unanimous in opposition to the content and the conclusions found in the White Paper, specifically, the conclusions that lead to no longer needing supervising physicians and allowing APRNs to practice independently. Mr.Hulstrand asked the Board to voice opposition to the White Paper.

Dr. Degenhart, an anesthesiologist practicing in Columbia and Camden addressed the Board about the White Paper. He stated there was a vast difference in education, background and experience between nurse anesthetists (CRNAs) and anesthesiologists and that independent practice by CRNAs is not in the best interest of patient safety.

Dr. Reeves, Chairman of the Department of Anesthesia and Preoperative Medicine at the Medical University of South Carolina (MUSC) addressed the Board, specifically as it pertains to the training and education of CRNAs and residents in anesthesia. He states that he trains 48 residents and is also involved intimately with the School of Nursing Anesthesia at MUSC.

He stated that over 50% of the nurses undergoing the masters in nursing anesthesia program do not have a bachelors of science in nursing degree, but have a two-year RN degrees. All resident physicians at MUSC have undergraduate degrees, as well as having completed Medical School. In post graduate work the graduate work for a CRNA consists of 28 months of school where they obtain about 1,500 hours of clinical experience under the supervision of a CRNA who in turn is supervised by an anesthesiologists. The resident, on the other hand completes the first year of post-graduate work by completing among other things, rotations in pulmonary, cardiology, critical care medicine, neonatal ICU, pediatrics, and adult emergency room medicine. They then complete three years of an anesthesiology residency where they are completing at a minimum 11,760 of clinical work.

Dr. Root, an anesthesiologist practicing in Columbia, addressed the Board. She reminded the Board, as noted by Dr. Degenhart, that landmark studies conducted by the Institute of Medicine showed in 1978 there was a one in a ten to fifteen thousand risk of an incident of mortality or morbidity, as opposed to the current risk of one in four hundred thousand cases due to anesthesia as it relates to the anesthesiologist.

She added why would we change the current practice of anesthesiology with a track record of unparallel safety because of the non-scientifically based claims from other groups that say they can do as well and concluded with that the safest environment for all citizens of South Carolina is whereby nurses, all nurses have the backup of extensively trained physicians.

Dr. Anderson, family practitioner from Columbia and representing the South Carolina Academy of Family Practitioners, told the Board that he valued APRNs, but APRNs had approximately 1,000 contact hours during training with patients, whereas residents have had at least 20,000 contact hours by the time they finish their residency program. Dr. Anderson also stated that in his experience APRNs tended to refer more frequently to specialists as opposed to residency trained board certified family practitioners which in turn causes health care costs to rise.

Dr. Anderson concluded by telling the Board that in his practice the focus was on creating a medical home for the patients where they focused on whole patient care, improved continuity with the primary care physician, carefully coordinated specialty referrals, and specifically team based care led by physicians, incorporating the APRNs, social workers, and Registered Nurses as case managers.

Dr. Kowalski made a motion that the Board formally endorses the Medical and Nursing Practice Act as they currently exist and that the Board receives the White Paper for further consideration. Dr. Ball seconded the motion and it was passed unanimously.

Ms. Burgess addressed the Board about Advisory opinion #56 concerning the ability for APRNs to conduct assessments without physician collaboration. Ms. Burgess stated the Nursing Board was asked to pass this opinion to reaffirm the notion that APRNs could conduct physical exams without supervision. She said that some APRNs were being told they could not perform these independently.

Dr. Gardner asked for a definition of the term assessment. Ms. Burgess responded that this included any assessment that a nurse could do that was considered nursing. This does not include using or ordering any tests that utilize diagnostic tools.

Ms. Burgess addressed the Board about Advisory Opinion 58 pertaining to a CRNA advancing a TEE probe and rendering an interpretation during surgery. She stated that CRNAs brought this to the Nursing Board as they are being asked to do this procedure.

Dr. Reeves told the Board that allowing this practice by APRNs would be a huge jump in the scope of practice for nurses. He noted that many physician specialty groups have very strict physician-patient papers on the training and requirements to perform intra-operative transesophageal echocardiography.

This technology is used to help plan and implement the actual surgical procedure and is used to tell the surgeon what is wrong with the mitral valve. This requires a tremendous amount of knowledge in regard to anatomy, the incident and prevalence of the disease, and progression of the disease.

He added there is a process in place to sit for the National Board of Echo Certification examination whereby a physician has to be Board certified by his specialty Board, have completed a high number of cases of a broad mix of surgical diseases and then take a written examination that has a 30% failure rate to become a diplomat in the Board of Echocardiography, which all physicians who practice echocardiography at MUSC have to be.

For the reason explicated above Dr. Reed asked the Board to deny the request from the CRNAs through Advisory Opinion #58.

Dr. Kowalski made the motion that transesophageal echocardiography is the practice of medicine and should be limited to individuals licensed to practice medicine. Dr. deHoll seconded the motion and it was unanimously passed.

Dr. Costa proposed that a committee be established of interested parties to give feedback to the Board about the various issues raised relevant to the issues cited above.

FINAL ORDER HEARINGS

A motion was made and passed for the Board to go into Executive Session to conduct Final Order Hearings. Each hearing was held in Executive Session, and a transcript of each hearing, as well as the Board's Final Order, are on file at the Board Office. After testimony for each case, the Board entered a private deliberative session. No votes were made or actions taken while the Board was in Executive Session. **A motion was made and passed to return to Public Session and the Board voted on the following sanctions after each Final Order Hearing:**

Lee Butterfield, M.D.
2008 – 99
Final Order Hearing

A motion was made by Dr. Gardner as follows:

- **Accept Memorandum of Agreement**
- **Public Reprimand**
- **Record keeping course to be completed within six months**
- **Intensive general internal medicine review course to be approved by the board and be completed within one year**
- **Pay Court Cost of $2,268**
- **Pay fine of $ 5,000**

Motion was seconded by Dr. Turner
Motion carries

Dan D Brown, RCP
2011 – 305
Request for reconsideration of revocation of license

A motion was made by Dr. Kowalski to accept the Memorandum of Agreement and to reinstatement of license can be achieved upon the following:

- **Passing of the RRT Exam**
- **Receive a recommendation from the Respiratory Care Committee that he is competent to return to practice**
- **A five year monitoring agreement with RPP**
- **After recommendation has been received from the Respiratory Care Committee, the president of the board will review such recommendation and take final action on the restoration of license**

Motion seconded by Dr. Turner
Motion carries

PHYSICIAN ASSISTANTS ADVISORY COMMITTEE RECOMMENDATIONS

Buck Harvey, PA, Chairman of the PA Advisory Committee presented the recommendations from the October Physician Assistants Advisory Committee. After discussion Dr. Ball moved and Dr. deHoll seconded the Motion to accept the recommendations. The recommendations were unanimously approved by the Board.

PROGRESSIVE PROFESSIONALS PROGRAM

Dr. Gregg Dwyer, Associate Professor and Director of Forensic Psychiatry in the Department of Psychiatry and Behavioral Science at the Medical University of South Carolina (MUSC) appeared and presented a report about MUSC's Progressive Professionals Program (PPP).

This program provides evaluation, treatment, and oversight for licensed and certified professionals in the health care, legal, and transportation fields. Issues included in their evaluations are sexual misconduct, cognitive functioning, disruptive behavior, substance use and or abuse, personality disorders, and psychiatric illnesses. The evaluations include clinical, psychometric, and physiological components.

Dr. Dwyer also informed the Board that the program could accommodate requests for specific medical specialty practice competencies.

UPDATE FROM RPP ON ABSTINENCE POLICY

Frank Sheheen and Rick Wilson from the Recovering Professionals Program (RPP) appeared and updated the Board on RPP's policy on abstinence from mood-altering substances. Mr. Sheheen told the Board that Dr. Jim Graham, medical director at RPP had had extensive conversations with prescribing physicians and helped some of them move away from prescribing psycho active medications for participants in the RPP program and that since the policy implementation positive drug screens have fell by 25%.

Mr. Wilson told the Board that RPP had put a process in place whereby a RPP participant can have Dr. Graham contact their prescribing physician to consult about the participant's drug regimen and to attempt to work out alternatives that are non-addictive and that will not cause impairment. If Dr. Graham and the prescribing physician cannot work out an agreement then the affected physician can present his case to the Board for Board consideration.

Mr. Wilson also asked the Board how voluntary participants should be handled by RPP as far as the abstinence policy. After a lengthy discussion it was decided by the Board that RPP in collaboration with medical experts would decide if and when a voluntary participant's request for exemption should be brought to the Board for a final decision.

OGC-OIE REPORT

Mr. Hanks and Mr. Sanders appeared and gave the Board the report on the Office of General Counsel (OGC) and Office of Investigation and Enforcement (OIE), respectively. Mr. Sanders informed the Board that OIE had returned to the practice of having all Medical Board investigators attend all Investigative Review Committee (IRC) meetings and Board meetings. He also told the Board there were seven full-time investigators committed to the Medical Board.

Mr. Sanders presented the IRC report.

Dismissals

Cases 1-10 were presented for dismissal. Dr. Hubbard moved to accept the recommendation and Dr. deHoll seconded the motion. The Board unanimously approved the recommendation.

Formal Complaints

Cases 11-16 were presented for formal complaints. Dr. deHoll moved to accept with Dr. deHoll seconding the motion and the Board unanimously approved the recommendation.

Letters of Cautions

Cases 17-28 were presented for a letter of cautions. Dr. Kowalski moved to accept, with Dr. Hubbard seconding the motion and the Board unanimously approved the Recommendations.

Mr. Sanders presented a statistical report of cases in OIE to the Board (see attached).

REQUESTS FOR EXECEPTION TO TRANFER PATIENT REOCRDS

Mr. Duke presented requests for the Board consideration about the selling of patient's records to an individual or entity other than a physician or hospital. After discussion Dr. deHoll moved to accept, with Dr. Dr. Kowalski seconding the motion and the requests were unanimously approved.

Melissa Augustine, M.D.
Request for more than three APRN's to be supervised by one physician

Dr. Gardner made a motion as follows:

- **The Board consider this request in the form of a individual application to allow Dr. Augustine to serve as the primary supervising physician for three full-time nurse practitioners and secondary for one other practitioner who will only require her coverage five weeks out of the year not consecutively; Nurse Practitioners involved, Jacqueline Dicesare, Dagmar Devlin, Jean Williams-Bowens and Sandra G Jones**
- **At the site so stated in their request**

ADJOURN

At 5:45 pm Dr. deHoll made a motion to adjourn. Dr. Gardner seconded the motion and it was unanimously passed.

RECONVENE

The Board reconvened at 8:40 am on Tuesday, February 7, 2012.

Wilson P Daugherty, M.D.
Applicant for Licensure

Dr. Gardner made a motion to allow applicant to proceed with licensure
Motion seconded by Dr. deHoll
Motion carries

Benedict Okwara, M.D.
Applicant for licensure

A motion was made by Dr. Gardner to allow Dr. Okwara to withdraw his application as requested
The motion was seconded by Dr. Ball
Motion carries

Pardeep K Shori, M.D.
Applicant for Licensure

Dr. deHoll made a motion to allow applicant a week to respond to the Board and decide whether or not to proceed with the application process
Motion seconded by Dr. Turner
Motion carries

Jeffrey Fitz, RCP
Request to be released from Boards final Order

Dr. Turner made a motion to release Mr. Fitz from Boards final Order
Motion was seconded by Dr. Kowalski
Motion carries

Peter A Zvejneiks, M.D.
Request to be released from Boards Final Order

Dr. Hubbard made a motion to grant the request for release
Motion seconded by Dr. Kowalski
Motion carries

Frank L Lyman, M.D.
2008 – 240
Final Order Hearing

Dr. Kowalski made a motion as follows:

- **Accept Memorandum of Agreement with modifications**
- **Public Reprimand**
- **Respondent is to fill all conditions necessary to allow successful re-enrollment in RPP**
- **When above conditions are received and the respondent has successfully enrolled with RPP for a period of one year, he may petition the board for reinstatement of his license**
- **Current competency will be required for any consideration for reinstatement**

Motion seconded by Dr. Turner
Motion carries

RCP COMMITTEE RECOMMNEDATIONS

Mr. Duke presented the recommendations from the January Respiratory Care Practitioners Advisory Committee. After discussion Dr. deHoll moved and Dr. Hubbard seconded the motion to accept the recommendations. The report was unanimously approved by the Board.

THE BOARD ADJOURNED AT 5:30 pm

Respectfully Submitted
Bruce Duke
Administrator