

**Minnesota Board of Nursing
Discipline Resources Committee Meeting
Minutes**

June 3, 2016
8:30 am – 10:30 am
Board of Nursing Conference Room
2829 University Ave SE, Minneapolis, MN

Members present: Cindy DeJarlais, Brad Haugen, Deb Meyer, Chris Norton *via telephone*, Michelle Harker, and Steve Strand.

Members absent: none

Staff present: Rene Cronquist, Barbara Damchik-Dykes, and Ben Hanson

Call to Order/Declaration of Quorum

S. Strand called the meeting to order at 8:30 a.m. and noted the presence of a quorum.

Review and Approval of Meeting Agenda

The meeting agenda was approved with one addition.

Review and Approval of Minutes

Minutes of the April 8, 2016, meetings were approved.

Discussion Topics

Debrief regarding discussion of consideration of hearing cases

At the previous committee meeting, the committee proposed a method for keeping the Board's discussion during hearings focused and efficient. The Board implemented this process during the single hearing at the April 7, 2016, Board meeting. Committee members commented that they found the discussion under the process to be more focused and orderly with less repetition but without hindering discussion.

Update on Criminal Background Check (CBC) and ALIMS progress

R. Cronquist reported ALIMS database remains under development. The Board of Veterinary Medicine will be the next board to implement CBCs.

Explore development of policies, guidelines or administrative rules to guide generally appropriate actions for certain types of complaints.

- Review of the draft guidelines for consideration of CBC results

R. Cronquist provided the committee with a draft of potential guidelines for the Board and Board staff to consider once the Board begins conducting CBCs. The draft presented a four-step process for narrowing the CBC results into categories for dismissal, opening a complaint, and ultimately, the level of discipline. The Committee discussed the draft, addressing each step in turn.

Extended discussion occurred with respect to Step Two, paragraphs 1, 2, and 3, which address evidence of rehabilitation of any criminal history. These steps were taken directly from the Minnesota Criminal Rehabilitation Act, Minn. Stat. § 364.01, et seq. B. Haugen brought up the potential unusual results where an individual with a short prison sentence and one year of good behavior since release can demonstrate rehabilitation, while an individual convicted to no prison time but a lengthy period of probation would not be able to present evidence of rehabilitation. R. Cronquist clarified that these steps do not prescribe against licensure if not met; they are only to be considered affirmative evidence of rehabilitation from previous crimes. Thus, the Board may consider an individual who has been compliant during an extended period of probation as rehabilitated from that crime and able to be licensed despite not meeting the stated evidence of rehabilitation. Paragraphs 1, 2, and 3, of Step 2 are prescribed examples the Board must deem as evidence of criminal rehabilitation, but the Board must also consider all other competent evidence of rehabilitation.

The committee also discussed a situation where an individual provides evidence of rehabilitation pursuant to paragraph 2, but is an individual to whom the Board would not ordinarily provide a license. R. Cronquist clarified that the applicant must still meet the “fitness to practice” element. So in situations where the individual has accompanying chemical dependency or mental health issues associated with the criminal history, the evidence of rehabilitation only applies to the Board’s ability to deny licensure based on criminal history. If current mental health, chemical dependency, or other issues are present, the Board may still deny or condition licensure based on those issues. However, the individual’s criminal history may not be held against him/her when making the licensure determination.

The Committee also discussed Step 3 at length, which addresses how Board staff categorize and address criminal histories. The categorization is based on the level and recency of the crimes, length of time since completion of any sentence, and the applicant or licensee’s honesty in disclosing their criminal history. The Committee discussed separating an applicant or licensee’s dishonesty on an application from consideration when determining discipline for criminal history and instead establishing an administrative penalty for dishonesty. Committee members felt the Step 3 made sense, was clear, and presented a fair system. Step 3 also met the Committee’s charge to increase efficiency by delegating duties to staff members.

As presented, Committee members agreed the draft allows significant discretion for discipline based on criminal history based on a list of mitigating and aggravating factors and provides excellent guidance for both experienced and new Board members.

The Committee discussed whether the proposal would be required to be entered as a rule or can be adopted as policy. Staff will present the guidelines to the Attorney General’s Office for advisement on the rule vs. policy issue. After reaching a conclusion on the rule vs. policy issue, the Committee will present the proposal to the full Board.

Next Steps

- Committee members will prepare to present the guidelines to the full Board.

- Committee will discuss setting an administrative penalty for an applicant or licensee's dishonesty when disclosing their criminal history.
- Committee will discuss creating and implementing an emeritus status for nurses who wish to surrender their license without disciplinary action.

Next Meeting

Scheduled for Friday, August 5, 2016, 8:30 a.m. to 10:30 a.m.

Adjourn

S. Strand adjourned the meeting at 10:30 a.m.

Recorded by: B. Hanson