

TENNESSEE BOARD OF NURSING

227 French Landing, Iris Room

Heritage Place, Metro Center

Nashville, TN 37243

February 27 & 28, 2008

MINUTES

Called to Order	Cheryl Stegbauer, Chairperson called the meeting to order at 8:40 a.m. on February 27, 2008.
Roll Call/Declaration of a quorum	The Chairperson declared a quorum was present.
Members Present	Cheryl Stegbauer, R.N., Chairperson Donna Roddy, R.N., Vice-Chairperson Terri Bowman, L.P.N. Barbara Brennan, R.N. Kathleen Harkey, Public Member Debbie Holliday, L.P.N. Wanda Hooper, R.N. Judy Messick, L.P.N. John Preston, A.P.N. Marian Stewart, R.N. Carol Thompson, A.P.N
Staff Present	Elizabeth Lund, Executive Director Martha Barr, Assoc. Executive Director Elizabeth Miller, Health Related Boards Director Donna Fairchild, Nursing Consultant Joan Harper, Administrative Director Sheila Bush, Administrative Manager Wilma James, Deputy General Counsel Lexi Whittemore, Assistant General Counsel Mona Jean-Baptiste, Assistant General Counsel Christopher Larkin, Assistant General Counsel Ernie Sykes, Assistant General Counsel Madeline B Williams, Administrative Law Judge Sandra Sturgis, Special Assistant to Commissioner of Health

Introduction of staff	Elizabeth Lund introduced the staff.
Guests in the Audience	Stegbauer recognized and welcome Four Rivers Practical Nursing Program from Union City, TN, McKenzie, TN, and Newbern, TN on February 27, 2008 and Four Rivers Practical Nursing Program from Alamo, TN and Motlow State Registered Nurse Program on February 28, 2008.
Approval of Minutes	Preston made a motion to accept the minutes from the September 27, 2007 and December 5 & 6, 2008 meeting. Holliday seconded the motion. The motion carried.
Conflict of Interest Policy	James, Deputy General Counsel, reviewed the Conflict of Interest and Confidentiality Policies.
Consent Agenda	Roddy made the motion to accept the Consent Agenda. Preston seconded the motion. The motion carried.

### **Agreed Orders**

Carla Anderson	RN 99136	Ms. Anderson was not present. Ms. Nicole Armstrong represented the State. After discussion, Hooper made a motion to accept the Agreed Order as amended. Preston seconded the motion. The motion carried. Ms. Anderson's license and her multi-state privilege have been revoked. Ms. Anderson was also assessed case costs.
Lecia Brady	LPN 37018	Ms. Brady was not present. Mr. Ernie Sykes represented the State. After discussion, Hooper made a motion to accept the Agreed Order. Preston seconded the motion. Ms. Brady has agreed to submit to a TNPAP evaluation within thirty (30) days of the effective date of the Order and must follow the recommendations made by TNPAP. A violation of the Order shall constitute a separate violation of the Nurse Practice Act and is grounds for further disciplinary action by the Board.

Gloria Keel-Edwards	RN 64266	Ms. Keel-Edwards was not present. Ms. James represented the State. After discussion, Hooper made the motion to accept the Agreed Order. Preston seconded the motion. The motion carried. Ms. Keel-Edwards's license will be placed on probation for eighteen (18) months from the date of the Agreed Order. Ms. Keel-Edwards employer must report to the Board of Nursing every six (6) months that Ms. Keel-Edwards is practicing within the scope of her license and a physician shall see each patient, Ms. Keel-Edwards must not formulate plans of treatment. Ms. Keel-Edwards must obtain six (6) hours of continuing education (e.g. Ethics) before end of probation. She has been assessed one (1) type A civil penalty in the amount of \$1,000.00 and assessed case costs not to exceed \$1, 7500.00.
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**Consent Orders**

Hooper made the motion to accept the Consent Orders as presented. Preston seconded the motion. The motion carried.

Deborah Gwen Fleming-Zeigler	RN 119691	Suspended until TNPAP evaluation. If TNPAP contract is required, once signed, Mrs. Fleming-Zeigler's license will be placed on probation to run concurrent with the TNPAP contract for no less than three years. If the TNPAP contract is extended, so will Mrs. Fleming-Zeigler's probationary period. If the TNPAP contract is not required, Ms. Fleming-Zeigler's, license will be placed on probation for a period of no less than three years. Multistate privilege limited to Tennessee only. Assessed costs.
Linda L Scott	RN 83396	Voluntarily surrendered. Assessed costs not to exceed \$1,000.00.
Bertha Louise Johnson	LPN 48193	Revoked and assessed costs.

Michael Lee Mackay	RN 112040	Revoked and assessed costs.
John T. Roberts IV	RN 134174	Probation for no less than two years. Obtain and submit one (1) continuing education class in charting and one (1) continuing education class in ethics during the first year of probation and one (1) continuing education class in charting and one (1) continuing education class in ethics the second year of probation for a total of two (2) continuing education classes in charting and two (2) continuing education classes in ethics. Multistate privileges limited to Tennessee only. Mr. Roberts has been assessed three (3) type C civil penalties in the amount of \$450.00.
Anna N Smith	LPN 60945	Revoked and assessed six (6) type A civil penalties in the amount of \$1,000.00 for a total of \$6,000.00. Ms. Smith is also assessed case costs.

### Screening Panel

Hooper made the motion to accept the Screening Panel Orders as presented. Preston seconded the motion. The motion carried.

Elaina Consiglio	RN 100245	Suspension/Probation
Cynthia W. Ewton	RN 53947	Suspension/Probation
Dana C. Flowers	RN 45425	Revoked and assessed case costs
Phyllis A. Shelton	RN 74333	Suspension/Probation
Shelly G. Rucker	RN 118140	Suspension/Probation

**Appeal Denial of Renewal**

Lee Ann McCain	RN 62848	Ms. McCain was present but not represented by an attorney. Ms. James represented the State. After discussion, Brennan made a motion for Ms. McCain’s license to be placed on probation, submit to an evaluation by TNPAP, and clearance from the Alabama Board of Nursing by September 2008. Roddy seconded the motion. The motion carried. Brennan also wanted Ms. McCain to understand that this will not serve as a precedent and that any licensee who has discipline in another state will not be licensed or renewed in Tennessee until the action in the other state has been cleared, but because of the error in reinstating her Tennessee license in 2006 and she has successfully worked in Tennessee for two years, has six months of sobriety, the Board will allow the renewal of her license.
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**Insufficient Funds for Administrative Revocation**

Hooper made the motion to administratively revoke the following licenses for insufficient funds. Preston seconded the motion. The motion carried.

Michelle Billups  
1509 Cherokee Road E  
Crossville, TN 38572

Exam  
Unlicensed

Sue A Fisher-Asburn  
2123 Hilham Hwy  
Livingston, TN 38570

RN 95023     08/31/2009

Katherine L Janutolo  
4009 Sam David Road  
Smyrna, TN 37167

LPN 37867     08/31/2008

Melissa L Martin  
3913 Edd Ross Road  
Cedar Hill, TN 37032

RN 119901     08/31/2009

## Contested Cases

Brenda Walker	RN 77450	<p>Ms. Walker was not presented nor represented by legal counsel. Mr. Sykes represented the State. Ms. Madeline B. Williams was the Administrative Law Judge. Mr. Sykes asked for a motion to proceed in default. After discussion, Holliday made the motion to proceed in default. Stewart seconded the motion. The motion carried. Mr. Sykes passed out the Notice of Charges. Ms. Walker is being charged with violating T.C.A. 63-7-115 (a) (1), (C), (D), (F) and (G) and Board rule 1000-1-.13(1) (b), (d), (e), (f), (g) and (w). After discussion, Brennan made the motion to find Ms. Walker guilty of the charges as amended. Preston seconded the motion. The motion carried. Brennan made a motion to revoke Ms. Walker's license, assess fifteen (15) type A civil penalties in the amount of \$15,000.00 and twenty (2) type B civil penalties in the amount of \$20,000.00 for a total of \$35,000.00 in civil penalties. Preston seconded the motion. The motion carried.</p>
Tina P. Edwards	LPN 59329	<p>Ms. Edwards was not present but represented by David Kozlowski, Attorney. Ms. James represented the State. Ms. Williams was the Administrative Law Judge. Ms. James passed out the Notice of Charges. Ms. Edwards is charged with violating T.C.A. 63-7-115 (a) (1), (B). After discussion, Roddy made a motion to revoke Ms. Edwards' license, to assess two (2) type C civil penalties in the amount of \$1,000.00 and case costs. Hooper seconded the motion. The motion carried.</p>
Vivian L. Ferguson	RN 142456	<p>Ms. Ferguson was not present nor represented by legal counsel. Ms. Whittemore represented the State. Ms. Williams was the Administrative Law Judge. Ms. Whittemore asked to proceed in default. After discussion, Preston made the</p>

motion to proceed in default. Thompson seconded the motion. Ms. Whittemore distributed the Notice of Charges. Ms. Ferguson is charged with violating T.C.A. 63-7-115 (a) (1) (A), (B), (F) and (G) and Board Rule 1000-1-.13(1). Hooper made the motion to find Ms. Ferguson guilty of the charges as amended. Preston seconded the motion. The motion carried. Hooper made the motion to revoke Ms. Ferguson's license and assess three (3) type A civil penalties in the amount of \$1,000.00 each for a total of \$3,000.00 and also case costs. Preston seconded the motion. The motion carried.

William L. Carlton	RN 115501	Mr. Carlton was present via telephone. Mr. Larkin represented the State. Ms. Williams was the Administrative Law Judge. Ms. Hooper recused. Mr. Carlton requested a continuance. After discussion, Preston made the motion to deny the continuance. Bowman seconded the motion. The motion carried. After discussion, Thompson made the motion to accept an Agreed Order of Revocation. Preston seconded the motion. The motion carried. Mr. Carlton's license has been revoked and he has been assessed case costs.
Vanessa F. Grant	RN 59674	Letter of Reprimanded. Assessed thirteen (13) type B civil penalties in the amount of \$100.00 each for a total of \$1,300.00.
Tennessee Peer Assistant Program (TNPAP)		Mr. Mike Harkreader, Executive Director gave the report.
Tennessee Center for Nursing (TCN)		Ms. Ann Duncan presented an oral and written report to the Board.

## February 28, 2008

### Open Forum

Ms. Claire Karas, R.N. a representative for the Association of PeriOperative Registered Nurses (AORN) addressed the Board concerning circulating nurses. Ms. Karas would like for the Board to have a policy or draft new rules that will require a RN as the primary circulator for the duration of the surgical procedure. Ms. Chris Clark, Vice President of Nursing for Tennessee Hospital Association (THA), spoke to the Board. Ms. Clark states that THA does not have a position at this time. After discussion, the Board's position is that while it supports the safety and welfare of the public, there is not sufficient data to make a decision. Ms. Karas will be speaking with the Board of Health Care Facilities on March 12, 2008 concerning this issue which is a part of HCF rules.

### Contested Cases

Catina L. Bowery

RN 111120

Ms. Bowery was present and represented by Frank Scanlon, Attorney. Ms. Jean-Baptiste represented the State. Ms. Williams was the Administrative Law Judge. Ms. Bowery has agreed to an Agreed Order revoking her license and assessed case costs. After discussion, Preston made the motion to accept the Agreed Order. Thompson seconded the motion. The motion carried.

Cheryl Musick

LPN 35551

Ms. Musick was present via telephone but not represented by legal counsel. Ms. Whittemore represented the State. Ms. Williams was the Administrative Law Judge. Ms. Whittemore distributed the Notice of Charges. After discussion, Thompson made the motion to revoke Ms. Musick's license, assess two (2) types A civil penalties in the amount of \$2,000.00 and case costs. Stewart seconded the motion. The motion carried.

### Nursing Schools Program Hearings

Tennessee State University	BSN	Dr. Barbara Buchanan, Director of Nursing, presented documentation to the Board concerning improvements made to the BSN program needed to lift the conditional approval to full approval. After discussion, Harkey made the motion to grant Tennessee State University full approval. Preston seconded the motion. The motion carried.
Freed-Hardeman University	RN to BSN	Ms. Linda Gibson presented documentation to the Board concerning their request to begin an RN to BSN program. After discussion, Thompson made a motion to grant initial approval to Freed-Hardeman University to begin the RN to BSN set to start Fall 2009. Stewart seconded the motion. The motion carried.
University of Phoenix	RN to BSN(campus on ground program)	Dr. Beth Patton, Associate Dean, presented documentation requesting full approval for their on campus ground program from RN to BSN. After discussion, Preston made a motion to grant full approval to the University of Phoenix RN to BSN campus on ground program. Brennan seconded the motion. The motion carried.
King College	BSN	Dr. Carolyn Robinson, Dean of Nursing, presented documentation to the Board concerning improvements made to the BSN program to support lifting conditional approval. Preston recused. After discussion, Thompson made a motion to grant full approval to King College. Brennan seconded the motion. The motion carried.
University of Tennessee/Memphis	MSN CNL	Dr. Susan Jacobs, Associate Executive Dean, presented documentation to the Board requesting approval of letter of

		intent and initial approval for an MSN CNL tract for initial professional licensure. Preston, Thompson and Stegbauer were recused. After discussion, Harkey made a motion to grant letter of intent and initial approval for the MSN CNL tract for initial professional licensure. Brennan seconded the motion. The motion carried.
Lincoln Memorial University	MSN	Dr. Mary Anne Modrein, Dean, presented documentation to the Board requesting full approval of MSN program. After discussion, Thompson made the motion to grant full approval to Lincoln Memorial University MSN program. Brennan seconded the motion. The motion carried.
Lincoln Memorial University	AD	Dr. Mary Anne Modrein, Dean, presented documentation concerning the progress report of the associate degree program. Lincoln Memorial University AD program had on NCLEX-RN, less than 85% pass rate for two consecutive years. Preston recused. After discussion, Brennan made the motion to place Lincoln Memorial University's AD program on conditional approval. Stewart seconded the motion. The motion carried.
Indiana State University	LPN to BSN	Dr. Marsha Miller, Interim Assistant Dean, presented to the Board the request for an approval letter of intent and initial approval of an LPN to BSN program through distance education. After discussion, Thompson made the motion to deny the request for an approval letter of intent and initial approval letter for the LPN to BSN program through distance education. Roddy seconded the motion. The motion carried.
ITT Technological Institute/Cordova	AD	Speaking to the program, Dr. Brenda Smith, Dr. Louise Hart and Mr. Steve Temple, Director, presented to the Board documentation requesting initial approval and letter of intent to establish an AD

program. Stegbauer recused. After discussion, Stewart made a motion to deny the request for approval of a letter of intent to establish an AD program. Thompson seconded the motion. The motion carried.

ITT Technological  
Institute/Chattanooga

AD

Speaking to the program, Dr. Brenda Smith, Dr. Louise Hart and Mr. Keith Dillon, Director, presented to the Board documentation requesting initial approval of a letter of intent to establish an AD program. Stegbauer recused. After discussion, Preston made a motion to deny the request for a letter of intent to establish an AD program. Thompson seconded the motion. The motion carried

ITT Technological  
Institute/Knoxville

AD

Speaking to the program, Dr. Brenda Smith, Dr. Louise Hart and Mr. Pete Pratti, Director, presented to the Board documentation requesting initial approval of a letter of intent to establish an AD program. Stegbauer recused. After discussion, Thompson made a motion to deny the request for a letter of intent to establish an AD program. Stewart seconded the motion. The motion carried

ITT Technological  
Institute/Nashville

AD

Speaking to the program, Ms. Desma Reno, Dr. Louise Hart and Mr. Steve Temple, presented to the Board documentation requesting initial approval of a letter of intent to establish an AD program. Stegbauer recused. After discussion, Thompson made a motion to deny the request for a letter of intent to establish an AD program. Stewart seconded the motion. The motion carried

## Presentation of Legislative Bills

### TENNESSEE BOARD OF NURSING POSITION ON BILLS 2/28/2008

Bill # and Sponsor	Description	Board of Nursing Position
HB 2831 Shepard	Allows federally qualified health center or community mental health center to exceed Rule 0880-6 promulgated by BME that speaks to supervision requirements.	Not enough information to have a position.
HB 2875 Dubois	Requires health care provider to notify law enforcement officer at hospital if results of tests performed on driver of vehicle involved in collision indicate that the driver had a .08 percent BAC or was under the influence of drugs.	Oppose—HIPAA restraints and ramifications of burdening health professionals with this requirement
HB 3008 Hackworth	Creates a pilot program that sets up one high school LPN program in each grand division. Clinical training in medical facilities shall be encouraged. Upon completion of the program the student will receive a license as a practical nurse. The BON would not approve or have oversight of these pilot programs. The graduate would be automatically licensed upon completion.	Oppose—Concern over lack of BON approval or oversight of the pilot programs.
HB 3177 Hackworth	Pilot program to increase career opportunities that encourages high school students to explore health-related fields. Successful	Oppose—Same as above.

HB 3275 Maddox	<p>completion of courses shall be accepted as completing an equivalent class in a board of regents' school. Courses shall include class work and clinical training. Adds to the qualifications for licensure as a practical nurse the option to have successfully completed a course of study in an approved school as a medical assistant.</p>	Oppose—Concern over lack of BON approval or oversight of the program.
HB 3288 Maddox	<p>Deletes exemption number (11) in the nurse practice act that refers to personal support services unlicensed personnel assisting with medication administration.</p>	Oppose—BON cannot support legislation that would authorize the administration of medication by unlicensed personnel.
HB 3292 Odom	<p>Clarifies that Tenn Care patient must disclose any prescription for controlled substances from any authorized provider to the treating health care provider.</p>	Support
HB 3677 Litz	<p>Allows a Tennessee licensed nurse who has a bachelor's degree or higher in nursing and at least ten years experience as a nurse anesthetist to be defined as a nurse anesthetist.</p>	Oppose—At present a master's degree is required to qualify as a nurse anesthetist. Question whether bill even requires certification as CRNA which is now required.
HB 4130 Winningham	<p>Makes appropriations for scholarship programs funded by state lottery proceeds for an indefinite period of time. Includes only NLN accredited nurse practitioner programs.</p>	Support intent
HB 4196	<p>Board chair is authorized to split the board into panels to hear disciplinary matters. A decision of the panel shall be deemed an order of the board.</p>	Support

HB 4204

Adds language in NPA exemption (10) that adds those providing personal support services to clients living in their own home or private residence pursuant to a contract or agreement under any Medicaid waiver or other program of the division of mental retardation services. This category of provider is currently addressed under exemption (11) and assists, but does not administer medication. Prior to changes in the exemption in 2006, these unlicensed providers did administer medication.

Oppose if it purports to expand medication administration to unlicensed persons.

SB 2768 Bunch

Requires contested case hearings to be held in the county of residence of the respondent except where the respondent is an agency, acting in the capacity of such agency or the respondent resides outside of Tennessee in which case the case will be heard in Davidson County.

Oppose--Impractical

SB 2779 Crowe

Amends HCF to provide that the Board can only place a nursing home license on probation. May only impose a type B civil penalty on a facility that fails to ensure that medications are administered only by those individuals licensed by the BON.

Would need more information to take a position.

SB 2798 Woodson

Adds administration of anti-seizure medication, including diazepam gel, to a student in an emergency

No position.

<p>SB 3043 Beavers SB 3122 Burchett</p>	<p>situation based on that student's IHP if school nurse not available. The BON and Epilepsy Foundations of Tennessee shall be afforded the opportunity to review and comment on the guidelines. Diazepam gel is administered rectally. SB companion to HB 2875 Provides that a RN or certified pharmacy tech is allowed to dispense prescription drugs in a federally qualified health center without the direct, on-premises supervision of a pharmacist when the pharmacist supervises the dispensing process by means of telepharmacy when on duty at an appropriate pharmacy facility. A pharmacist may not stock pre packaged medications for new patients unless the pharmacist has individually reviewed the prescription. The Commissioner of Health, not the BOP is authorized to promulgate rules.</p>	<p>Oppose Oppose—Nurses cannot dispense now without the supervision of a pharmacist. The pharmacist's supervision provides a check and balance that is necessary.</p>
<p>SB 3248 McNally</p>	<p>Encourages and promotes admissibility of an apology in a medical malpractice case.</p>	<p>OK</p>
<p>SB 3483 Watson</p>	<p>States that NPA exemption (11) does not apply to persons meeting the requirements of exemption (10).</p>	<p>Would need more information to take a position.</p>
<p>SB 3872 Crowe</p>	<p>Amends NPA to provide that nurse practitioners who use typed or computer-</p>	<p>OK</p>

generated prescription orders must ensure the prescription is legible and comprehensible to the pharmacist. The bill requires that the prescription contain the name of the NP, name and strength of the drug, quantity prescribed in letters and numerals, instructions for proper use, and the month/day/year issued recorded in letters or numerals or combination thereof. Same language in current law for handwritten prescriptions.

SB 3875 Kilby

Allows nurse practitioners to operate as county coroner by performing post-mortem examinations. Adds NPs to class of practitioners who can serve as county coroners, serve as medical examiner. Adds NP to the class of practitioners who are authorized to certify that an individual qualifies as a “disabled driver” entitled to disabled driver license tag. Bill deletes the term physician’s statement where found in TCA 55-21-103 and substitutes “medical statement.”

Neutral

SB 3920 Johnson

Allows the BME to promulgate rules governing the roles and responsibilities of supervising physicians without adoption by the BON or Committee on Physician Assistants. Current law requires joint adoption.

Oppose—Rules must be jointly adopted by BON/BME.

SB 4051 Marrero B

Allows APNs to enter into professional limited liability corporations with physicians. Current law allows APNs to enter into PLLCs only with other APNs.

Support

### **General Discussion**

The Practice Committee presented to the Board correspondence from Robin Dauksch, Kathleen Barkley, RN and Teri Hartman, MSN, RN requesting Advisory Opinions.

Ms. Barkley's question pertained to "Is it within the scope of practice of a licensed (RN and LPN) to accept and act on a verbal/telephone order transmitted through a third party? Can the third party giving the order be unlicensed? If the order is questionable should the clarification come directly from the authorized prescriber?" The opinion of the Board is that the physician is responsible for delegation of telephone orders; the organization will decide what its policy is and the nurse is responsible for his individual decision to act on the order or seek clarification. Although the Tennessee State Board of Nursing statutes, rules and regulations do not speak specifically to verbal and telephone orders, the Board is aware that this is, at times, a necessary practice. The licensed personnel who will review and act on verbal or telephone orders are individually responsible for their own actions [Rules and Regulations of Registered Nurses Chapter 1000-1-.04 (3) (a)]. The nurse who is not satisfied that the telephone orders are clear should clarify the orders with the ordering physician.

Ms. Dauksch's question pertained to "Who can receive verbal orders from a physician"? The opinion of the Board is that organizational policy should speak to who may receive orders. It is a standard of care that a nurse who will carry out medical orders should seek clarification regarding these orders from the ordering physician if they are unclear. The same is true if orders appear inappropriate for the individual for whom they are intended. This is done prior to implementation of the order.

Ms. Hartman's question pertained to "Epidural Catheter Removal by Registered Nurses at Vanderbilt University Medical Center." The opinion of the Board is to refer you the requestor to the American Association of Nurse Anesthetists (AANA) position statements 2.8: Provisions of Pain Relief by Medication Administered via Continuous Epidural, Intrathecal, Intrapleural, Peripheral Nerve Catheters, or Other Pain Relief Devices, Part III: Pain Relief by Catheter Techniques-Management by Other Health Care Providers and 2.9: Removal of Epidural Catheters. These documents describe circumstances under which RNs may remove epidural catheters. They may be helpful when the organization develops its policy on epidural catheter removal.

**An advisory opinion is a private letter ruling that applies only to the persons making the inquiry and it has no binding precedential value beyond that pursuant to T.C.A. 63-7-207 (15) which states “Such private ruling shall only affect the licensee making such inquiry, and shall have no precedential value for any other inquiry or future contested case to come before the board**

The Board meeting was adjourned at 8:00 p.m.

**Ratified by the Board of Nursing on June 4, 2008.**

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Chairman

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Date

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Executive Director

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Date