

REPORT OF THE EXECUTIVE DIRECTOR

NATIONAL ISSUES

CLEAR Releases Report on Lessons Learned from Hurricanes Katrina and Rita: The Council on Licensure, Enforcement and Regulation (CLEAR) has issued a preliminary report entitled *Licensing Agencies and Emergency Preparedness*. The impetus for this project was the realization that many licensing agencies were caught unprepared to assist the large numbers of licensed personnel who were displaced by Hurricanes Katrina and Rita. CLEAR found that post-hurricane executive orders were issued by Governors in at least five states (Maine, Missouri, South Carolina, Tennessee and Virginia), addressing displaced licensed personnel. Other state agencies and associations also took emergency action and the report identifies many of these efforts. This report is intended to begin necessary and important dialogue on emergency planning for all disasters. CLEAR will continue to identify additional resources that may be useful to the licensing community. The report can be viewed at http://www.clearhq.org/draft_report.htm.

HHS Releases Pandemic Flu Plan: Department of Health and Human Services (HHS) Secretary Mike Leavitt recently released the HHS pandemic flu plan, intended as a detailed guide for how the nation's health care system can prepare and respond to a flu pandemic. The medical and public health component of the national pandemic strategy announced by the president, the 396-page plan describes the federal agency's pandemic preparedness strategy and provides guidance on how the public health and health care system can prepare for and respond in the event of a pandemic. The plan updates and refines a draft HHS plan issued in August 2004. The plan is available at <http://www.pandemicflu.gov/>. The Department of State Health Services has also issued a draft plan titled *Pandemic Flu Preparedness Plan* which can be viewed at <http://www.dshs.state.tx.us/>.

Council of State Governments Adopts Resolution on Criminal Background Checks: Attached is the resolution adopted by the Council of State Governments (CSG) at their recent annual winter meeting (**Attachment A**). The resolution contains reference to 'biometric' checks instead of fingerprint checks. The CSG Executive Committee did this believing this broader reference would better influence future policy decisions as technology improves.

HHS Awards Contracts to Develop Nationwide Health Information Network: U.S. Department of Health and Human Services (HHS) Secretary Mike Leavitt recently announced the award of contracts totaling \$18.6 million to four groups of health care and health information technology organizations to develop prototypes for Nationwide Health Information Network (NHIN) architecture. The contracts will move the nation toward the President's goal of personal electronic health records by creating a uniform architecture for health care information that can follow consumers throughout their lives. These contracts complete the foundation for an interoperable, standards-based network for the secure exchange of health care information. HHS previously has awarded contracts to create processes to harmonize health information standards, develop criteria to certify and evaluate health IT products, and develop solutions to address variations in business policies and state laws that affect privacy and security practices that may pose challenges to the secure communication of health information.

The four consortia are led respectively by Accenture, Computer Sciences Corporation (CSC), International Business Machines (IBM) and Northrop Grumman. Each consortium is a partnership between technology developers and health care providers in three local health care markets. Each group will develop architecture and a prototype network for secure information sharing among hospitals, laboratories, pharmacies and physicians in the three participating markets. Additionally, all four consortia will work together to ensure that information can move seamlessly between each of the four networks to be developed, thus establishing a single infrastructure among all the consortia for the sharing of electronic health information. Each of the four consortia will design and implement a standards-based network prototype during the coming year. The prototypes will test patient identification and information locator services; user authentication, access control and other security protections and specialized network functions, as well as test the feasibility of large-scale deployment. The work of the consortia will inform the deliberations of the American Health Information Community (the Community), a new federal advisory committee chaired by Secretary Leavitt, which is charged with providing input to HHS and the industry on how to make health records digital and interoperable.

The consortia will share ideas and information about the architecture and prototypes with each other and with the public in order to accelerate secure and seamless exchange of health information across the nation. Once created, the architecture design for each of the networks will be placed in the public domain to stimulate others to develop further innovative approaches to implementing health information technology.

More details on these contracts are available at <http://www.hhs.gov/healthit>.

CGFNS Designates Barbados and Jamaica as English Exempt Countries for the Purpose of

212(r) Visa Certification: The Commission on Graduates of Foreign Nursing Schools (CGFNS) announced that it has added Barbados and Jamaica to the list of English exempt countries under Section 212(r) of the U.S. Immigration and Nationality Act. Nurses from countries who qualify under Section 212(r) are eligible for this alternative screening of their professional credentials for the purpose of immigration. To qualify for the Certified Statement, foreign educated nurses from a Section 212(r) designated country must have passed NCLEX-RN. They also must hold a current, valid and unrestricted license from one of the five designated Section 212(r) states—Florida, Georgia, Illinois, Michigan and New York. They also must have graduated from a nursing program in which the language of instruction and textbooks were in English. Barbados and Jamaica will now join Australia, Canada, Ireland, New Zealand, South Africa, Trinidad and Tobago, the United States and the United Kingdom as 212(r) designated countries. This status exempts nurses from English language proficiency examinations and qualifies them to receive a Certified Statement from CGFNS as an alternative process in lieu of a *VisaScreen*[™] certificate.

CGFNS established the *VisaScreen*[™] program to assess credentials of foreign healthcare workers and provide the government-required visa certificate now mandated by the Department of Homeland Security rules issued in 2003. CGFNS has been given the authority to designate countries eligible for the exception under section 212(r) if the quality of nursing education in that country and the English language proficiency of those who complete such programs is sufficient.

Final Skilled Nursing Faculty Staffing Rule Details New Data Posting Requirements:

The Centers for Medicare & Medicaid Services (CMS) recently published a final rule establishing new data collection, posting and recording-keeping requirements for skilled nursing facilities (SNF) and nursing homes. Effective Dec. 27, the rule requires SNFs and nursing homes to post the actual and total hours worked each shift by licensed and unlicensed nursing staff directly responsible for resident care. In addition, the rule requires facilities to post their resident census. The data must be posted daily at the beginning of each shift, in a place readily accessible to residents and visitors. CMS interprets licensed nursing staff to mean registered nurses, licensed practical nurses or licensed vocational nurses, and unlicensed nursing staff to mean certified nurse aides, as defined under state law.

Nursing School Enrollment Increase Falls Far Short of Meeting the Projected Demand for RNs : The American Association of Colleges of Nursing (AACN) has released preliminary survey data that shows enrollment in entry-level baccalaureate nursing programs increased by 13.0 percent from 2004 to 2005. Though this increase is welcome, surveyed nursing colleges and universities denied 32,617 qualified applications due primarily to a shortage of nurse educators. AACN is very concerned about the increasing number of qualified students being turned away from nursing programs each year since the federal government is projecting a shortfall of 800,000 registered nurses (RNs) by the year 2020.

AACN's annual survey is the only resource for actual (versus projected) national data on enrollment and graduations reported by the nation's baccalaureate and graduate degree programs in nursing. This year's 13.0 percent increase in enrollments is based on data supplied by the same 408 schools reporting in both 2004 and 2005. This is the fifth consecutive year of enrollment increases with 14.1, 16.6, 8.1, and 3.7 percent increases in 2004, 2003, 2002, and 2001, respectively. Prior to the five-year upswing, baccalaureate nursing programs experienced six years of declining enrollments from 1995 through 2000. For a graphic depiction of enrollment changes in baccalaureate nursing programs from 1994-2005, see <http://www.aacn.nche.edu/Media/ppt/94-05EnrChgs.ppt>.

The AACN survey also found that the number of graduates from entry-level baccalaureate programs increased by 19.1 percent from 2004 to 2005. This data is based on information supplied by the same 393 schools reporting for the past two years. The recent rise in graduations follows 14, 4.3 and 3.2 percent increases in the number of graduates in 2004, 2003 and 2002, respectively. This upward trend was preceded by a six-year period of graduation declines from 1996 through 2001. AACN's latest data confirm that interest in nursing careers continues to grow, which is good news considering the projected demand for nursing care. For more information, see: <http://www.aacn.nche.edu/Media/NewsReleases/2005/enr105.htm>

House Holds Hearing in Colorado Addressing RN Faculty Shortage: Congress held a hearing on November 30, 2005 at the University of Northern Colorado, in Greeley. The hearing, chaired by Rep. Marilyn Musgrave (R-Colo.) was the first of two field hearings to be held by the House Subcommittee on Select Education to examine how a lack of higher education faculty contributes to shortages in the nursing field. Colorado's current nurse faculty shortage is significantly greater than the national average shortage of 8.6 percent. Statewide shortages range from 15 percent in four-year institutions, to 25 percent in two-year institutions and community colleges.

The state of Colorado has developed a comprehensive approach to addressing the nursing shortage. The Colorado Department of Labor and Employment and the Colorado State Workforce Development Council both convened health forums around the state to identify creative programs to address the problem. Collaborative efforts like those identified in the state of Colorado may help to alleviate nursing shortages by increasing the availability of trained faculty.

Health Resources and Services Administration Releases Preliminary Findings: HRSA has released preliminary data from the 2004 National Sample Survey of Registered Nurses. An electronic copy of the report is available on their website at <http://bhpr.hrsa.gov/healthworkforce/reports/rnpopulation/preliminaryfindings.htm>.

Results In From Nurse Educator Certification Exam: The National League for Nursing (NLN) has awarded the first designations as Certified Nurse Educator (CNE^{CM}) to academic nurse educators who successfully completed an examination administered by the NLN. Two hundred and six candidates took the exam, and 174 passed. Those who took the exam represented 45 states

and the District of Columbia; forty-eight percent hold doctoral degrees; and the rest held master's degrees. Thirty-two percent have more than 20 years experience as academic nurse educators. Unfortunately, 47 percent of these faculty are expected to retire within the next ten years, and 72 percent within the next 15 years.

Americans Rate Nurses #1 in Professional Honesty and Ethical Standards: The Gallup organization's 2005 annual poll on professional honesty and ethical standards ranked nurses number one. The poll asked Americans to rate the honesty and ethical standards of members of professions on a five-point scale that ranges from "very high" to "very low." 21 professions were tested this year, and nurses are among five that have majority "high ethical" standards. Others included pharmacists, medical doctors, high school teachers, police officers and clergy. Nurses led all other groups with 82 percent of polled Americans rating them "very high."

STATE ISSUES

Meeting with Texas Nurses Association: I met with Clair Jordan on November 7, 2005 for an informal discussion of issues related to Sunset Review and communication between TNA and the BNE. A follow up meeting was held to include the Presidents and Executive Directors of the BNE and TNA. Dr. Rounds and I met with Clair Jordan and Kathi Light (President of TNA) on December 14, 2005 at our offices. TNA shared that they see the potential for a change in our relationship as resources and personnel have changed and they desire to improve our communication. The meeting offered an opportunity to discuss the upcoming Sunset review from both organizations's perspective. There were suggestions that BNE staff and Board members meet with the TNA Board as well as methods for more timely staff to staff communications.

BOARD ISSUES

Online applications for Endorsement and Examination: Online applications for initial licensure are now available through Texas Online. Links are available from the BNE home page. We are accepting both paper and online applications in calendar year 2006.

GVN/GN Permits: As of January 1, 2006, we will no longer print paper GVN/GN permits. Students and employers will access the permits online at www.bne.state.tx.us and may then complete an online verification. The GVN/GN permits will be online within five working days after receipt of the affidavit of graduation. This new process was announced in the last *Texas Board of Nursing Bulletin* dated October, 2005. If needed, a copy of this letter and the *Texas Board of Nursing Bulletin* article can be printed to give to employers.

Future FBI Fingerprint Process Changes: The Texas Department of Public Safety has contracted with a private vendor for a new fingerprint digital scanning system and will be in use starting in calendar year 2006. This will replace the paper fingerprint cards and should be more accurate and reliable. The BNE is working on procedures for implementation and will publish the date of availability for applicants and nurses.

DPS Offers BNE Updated Data on Nurses: The Department of Public Safety has a new program which allows our licensees who are fingerprinted to be kept in their data base. If any subsequent criminal conduct is reported to DPS, the BNE would be notified. This service will be very helpful to the Board for criminal behavior which occurs in Texas. The Federal Bureau of Investigations does not offer this same service at this time.

Board Development: Generally at each board meeting, a board development session is held. For this meeting, the Board will be trained on Temporary Suspension/Temporary Restriction of Nursing Licenses. We have recently been informed that the Attorney General's Office video training on Open Government is now available online. We will schedule this training for the April Board meeting.

AGENCY ISSUES

New Staffing for the FY 06-07 Criminal Background Check Programs: In anticipation of adding new fingerprinting programs authorized by the FY 06-07 budget, the Licensing and Customer Support Service area was reorganized to include promotion of John Bolton to Manager. Seven of the nine new staff have been hired to implement these new programs. The office build-out to accommodate office spaces for the new staff is complete. Fees necessary to cover these new programs were published as amendments to Rule 223 and implemented on September 1, 2005.

Website: The BNE website continues to be expanded to include information for consumers in Spanish (see <http://www.bne.state.tx.us/ESP-consumer.htm>), and online applications for initial licensure by endorsement and examination which have links from the home page.

Agency Data: The following data reflects agency size and workload:

- Total FTEs – **76.5**
- Total phone calls for first quarter FY '06- **54,618** to main line only
- Total Numbers of Licensees:
 - RN - 186,365 (10,762 APNs)
 - LVN - 79,131
- **Total LVN and RN Licensees - 265,496**

- Renewals for first quarter FY 06 – 34,519
 - Online – 20,961(RN); 7,563 (LVN)
 - Mailed – 1,440(RN); 1,710 (LVN)

- Jurisdictional complaints received for first quarter FY 06 – 1,522 (915 RN, 607 LVN)

- Complaints resolved in first quarter FY 06 – 1,265 (755 RN, 510 LVN)

- Licenses sanctioned in first quarter FY 06 – 455; 258 (RN); 197 (LVN)

- Eligibility orders in first quarter FY 06 – 95

- Eligibility petitions approved without stipulations – 289

- Eligibility petitions denied by the Board – 21

Key Meetings and Presentations: I have attended/presented at the following meetings since the last Board meeting:

- *Meeting:* APRN Advisory Panel Meeting, October 25-27, 2005, Chicago.
- *Meeting:* Deans and Directors Meeting, October 28, 2005, Austin.
- *Meeting:* Meeting with Clair Jordan, Texas Nurses Association, regarding Sunset Review,

November 7, 2005.

- *Conference Call:* NLCA-Executive Committee, November 14, 2005.
- *Conference Call:* TNA Competency Task Force, November 15, 2005.
- *Meeting:* Nursing Workforce Data Center Meeting, November 16, 2005, Austin.
- *Meeting:* TPAPN Staff Visited the BNE to introduce new staff, November 17, 2005.
- *Conference Call:* Meeting with NCSBN Staff and Committee to discuss APRN Vision Paper, November 18, 2005.
- *Conference Call:* Meeting to discuss changes to NURSYS to capture multistate privilege data, December 1, 2005.
- *Conference Call:* Nurse Licensure Compact Administrators Meeting, December 12, 2005.
- *Meeting:* With Clair Jordan and Kathi Light to discuss Sunset Review and Communication, December 14, 2005.
- *Meeting:* State Agency Nursing Leadership group monthly meeting, December 19, 2005, Austin.
- *Meeting:* With Nancy Mabus and staff of the Texas Higher Education Coordinating Board to discuss Galen Institute's options and plans, December 21, 2005.
- *Meeting:* With State Auditor's Office to discuss financial audit of the agency, December 29, 2005.

Cases Where Executive Director Offered and Entered Ordered Orders in Compliance with Board Policy:

LVN DISCIPLINARY ORDERS TO INCLUDE APPLICANTS AND EN-DORSEMENTS

Time frame: October 1, 2005, through December 31, 2005

DISCIPLINARY	
25	<p>REMEDIAL EDUCATION</p> <ul style="list-style-type: none"> 1 Failed to document the administration of Xanax and Hydrocodone and follow proper wastage procedures; misappropriated Xanax and Hydrocodone; withdrew medications without a physician's order 1 Intentionally obstructed the view of surveillance cameras monitoring a quadriplegic patient 1 Administered a Tetanus/Diphtheria injection without a physician's order 1 Convicted of the misdemeanor offenses of Carrying a Firearm, Driving Under the Influence, Public Intoxication 1 Failed to check patients blood pressure prior to administering medication; failed to prevent complications 1 Failed to document the administration of medications; failed to ensure that an antibiotic was administered 1 Abandoned patients by terminating responsibility for nursing care 1 Failed to accurately assess, evaluate and institute nursing intervention; document change in patient status; administration of two medications and report to oncoming nursing staff 2 Verbally abused a patient 2 Failed to accurately and completely document in medical record 1 Failed to assess bruising in a patient or notify physician of bruising; failed to report residents allegations of abuse 1 Failed to perform a focused assessment; failed to notify the physician when a patient's fell or document the fall 1 Allowed an individual who was not on staff at the facility and who lacked the education, experience and/or knowledge to perform duties 1 Intentionally struck a coworker three times with a syringe needle 1 Failed to implement measures to promote a safe environment for a resident 1 Failed to report careless and repetitive conduct by a co-worker 1 Started an IV line on a co-worker without a physician's order 1 Failed to notify physician of status change in a patient 1 Failed to identify a non speaking patient prior to administering medications 1 Administered the wrong medication; Administered medication without a physicians order 1 Failed to assess, evaluate and institute nursing intervention; failed to document weekly and monthly skin assessments; failed to notify physician of skin deterioration 1 Failed to assess, evaluate and institute nursing intervention; document the assessment of the intravenous infusion site; administer Vancomycin and Potassium Chloride; inserted a foley catheter without a physician's order; failed to ambulate a patient as ordered <u>1</u> Failed to prevent the misappropriation of Talwin <p style="margin-left: 0;"><u>1</u> 25</p>
7	<p>FINE WITH REMEDIAL EDUCATION</p> <ul style="list-style-type: none"> 4 Practiced without a valid license <u>3</u> Non Compliance with Continuing Education Audit <p style="margin-left: 0;"><u>3</u> 7</p>

14	<p>FINE</p> <p><u>14</u> Non compliance with Continuing Education Audit 14</p>
12	<p>TPAPN BOARD ORDER</p> <ul style="list-style-type: none"> 1 Misappropriation and intemperate use of Demerol 1 Failed to document the administration of or follow proper waste procedures for Morphine Sulphate and Demerol; falsified physician's order; intemperate use of Benzodiazepines, Morphine, Meperidine, Normeperidine and Tramadol; lacked fitness to practice 1 Intemperate use of Marijuana, Cannabinoid, Amphetamines and Methamphetamine 1 Increased her personal prescription for Methadone; misappropriated excess Dilaudid; lacked fitness to practice; completed a twenty-eight (28) day inpatient treatment program 1 Intemperate use of alcohol and cocaine 1 Falsely documented the administration of Hydrocodone; diverted Hydrocodone; self reported an addiction to pain medication 3 Engaged in the intemperate use of Cocaine 1 Convicted of the misdemeanor offense of Driving While Intoxicated 1 Abandoned patients by terminating responsibility for nursing care <u>1</u> Intemperate use of Hydrocodone <p>12</p>
13	<p>ENDORSEMENTS</p> <ul style="list-style-type: none"> 6 No Grounds for Denial 3 Disciplinary action taken by another license Board 1 Charged with the felony offense of Forgery 1 Charged with twenty-one counts of the misdemeanor offense of Theft by Check 1 Charged with the offenses of Concealing Stolen Property; Theft and three counts of Forgery <u>1</u> Denial of Licensure <p>13</p>

110	<p>APPLICANTS/ PETITIONERS</p> <ul style="list-style-type: none"> 13 Denial of Licensure <ul style="list-style-type: none"> 1 Charged with the felony offenses of Possession of a Controlled Substance and Maintaining a Drug Vehicle 1 Charged with the felony offense of Possession of a Controlled Substance and two counts of the misdemeanor offense of Theft 2 Charged with the felony offense of Forgery 2 Charged with two counts of the felony offense of Possession of a Controlled Substance 1 Charged with the felony offense of Credit Card Abuse 1 Charged with the misdemeanor offenses of Assault Causing Bodily Injury, Possession of Marijuana and Minor in Possession of Drug Paraphernalia 1 Charged with the felony offense of Criminal Mischief 1 Charged with the felony offenses of Possession of a Controlled Substance and Maintaining a Drug Vehicle 1 Charged with the misdemeanor offenses of Possession of Marijuana; Theft and Criminal Trespass 1 Charged with the misdemeanor offenses of Theft of Property, Theft and two counts of Evading Arrest 1 Charged with the misdemeanor offense of Theft 8 Failure to disclose criminal history on application/petition <ul style="list-style-type: none"> 1 Charged with the misdemeanor offense of Theft and three counts of Issuance of a Worthless Check 1 Charged with the felony offense of Possession of a Controlled Substance and the misdemeanor offense of Assault Causing Bodily Injury 1 Charged with the felony offense of Failure to Stop and Render Aid 1 Charged with one felony counts and one misdemeanor counts of Family Violence 1 Charged with the state jail felony offense of Forgery; two counts of the felony offense of Delivery of a Controlled Substance 1 Charged with ten counts of the misdemeanor offense of Issuance of a Bad Check 1 Charged with the misdemeanor offenses of Injury to an Elderly Person and Driving While Intoxicated 1 Diagnosed with Bipolar Disorder 1 Charged with four counts of the misdemeanor offense of Minor in Possession of Alcohol <p><u>67</u> No Grounds for Denial</p>
	110

20

VOLUNTARY SURRENDER

- 1 Convicted of the misdemeanor offense of Operating a Motor Vehicle in a Public Place While Intoxicated; and the 3rd degree felony offense of Assault with a Vehicle Causing Serious Injury
- 1 Convicted of two counts of the misdemeanor offense of Driving While Intoxicated; lacked fitness to practice safely by exhibiting signs of intoxication; falsified renewal application
- 1 Failed to document the administration of Vicodin and Norco or follow proper wastage procedures; misappropriated Vicodin and Norco; Withdrew Vicodin and Norco for patients who had not been admitted; intemperate use of Propoxyphene resulting in a positive drug screen
- 1 Convicted of the misdemeanor offenses of Assault Causing Bodily Injury and three counts of Driving While Intoxicated; charged with the felony offense of Possession of a Controlled Substance
- 1 Convicted of the misdemeanor offense of Harboring a Runaway Child; the state jail felony offense of Delivery of a Controlled Substance and the 2nd degree felony offense of Possession of a Controlled Substance
- 1 Convicted of the misdemeanor offense of Driving While Intoxicated and the state jail felony offense of Possession of a Controlled Substance
- 1 Passed a forged, unauthorized prescription for Hydrocodone, Codeine and Soma; intemperate use of Tramadol resulting in a positive drug screen
- 1 Misappropriated MS Contin, Roxanol, and Vicodin from a resident; Attempted to misappropriate Vicodin; intemperate use of Vicodin and Soma
- 1 Convicted of two counts of the state jail felony offense of Possession of a Controlled Substance; misdemeanor offenses of Possession of a Controlled Substance, Possession of a Dangerous Drug, and Theft
 - 1 Practiced without a valid license; altered an LVN license
 - 1 Misappropriation of Seroquel, Acetaminophen with Codeine, Promethazine VC with Codeine, Principen, Hydrocodone and Alprazolam; Passed fraudulent unauthorized telephonically communicated prescriptions, charged with the 3rd degree felony offense of Controlled Substance - Fraud
 - 1 Disciplinary Action taken by another licensing State
 - 2 Non compliance with previous Board Order
 - 3 Submitted a statement of voluntary surrender
- 1 Failed to document the administration of Lortab; forged a Certified medication Aide badge; convicted of the 3rd degree felony offense of Fraud - Obtain Controlled Substance
- 1 Convicted of the felony offense of Conspiracy to Commit Health Care Fraud and Pay Kickbacks
- 1 Convicted of the 2nd degree felony offense of Aggravated Assault with a Deadly Weapon

20

RN DISCIPLINARY ORDERS AND ENDORSEMENTS

Time frame: October 1, 2005, through December 31, 2005

DISCIPLINARY	
14	<p>FINE WITH REMEDIAL EDUCATION</p> <ul style="list-style-type: none"> 4 Practiced without a valid license 1 Convicted of two counts of the misdemeanor offense of Driving While Intoxicated; falsified application for initial licensure by examination; entered a twenty-eight (28) day inpatient treatment program <u>9</u> Non compliance with Continuing Education Audit <p style="text-align: left;">14</p>
17	<p>FINE</p> <ul style="list-style-type: none"> <u>17</u> Non compliance with Continuing Education Audit <p style="text-align: left;">17</p>
17	<p>REMEDIAL EDUCATION</p> <ul style="list-style-type: none"> 1 Failed to assess, evaluate and institute nursing intervention; document the assessment of the intravenous infusion site; administer Vancomycin and Potassium Chloride; inserted a foley catheter without a physician's order; failed to ambulate a patient as ordered 1 Falsified a physician's order for Calcium Tums 1 Failed to monitor licensed nurses under her responsibility 2 Failed to timely administer medications and/or document the administration 1 Convicted of the misdemeanor offense of Assault Causing Bodily Injury 1 Allowed an individual who was not on staff at the facility and who lacked the education, experience and/or knowledge to perform duties 1 Convicted of the 1st degree felony offense of Possession of a Controlled Substance; falsified application for initial licensure by examination 1 Failed to properly educate the spouse of a patient in administering medication 1 Failed to intervene for a pediatric patient 1 Left medicine cart in an unsecured area, unlocked and unattended resulting in a pregnant patient overdosing on medication 1 Failed to document the temperature of an infant for a period of over an hour or the feeding for a seven hour period; withdrew multiple doses of Lortab and held the medication unsecured, to administer at a later time; withdrew Nubain without administering 1 Obtained Solu-Medrol and Benadryl without a valid physician's order; administered Benadryl to a patient who was allergic and failed to document the administration 1 Failed to completely assess and institute nursing intervention required to stabilize a patient 1 Intemperate use of Amphetamine and Methamphetamine resulting in a positive drug screen 1 Failed to assess, evaluate and institute nursing intervention; failed to document weekly and monthly skin assessments; failed to notify physician of skin deterioration 1 Continued to practice as an Acute Care Nurse Practitioner after being directed to cease practice <p style="text-align: left;">17</p>

17	<p>TPAPN BOARD ORDER</p> <ul style="list-style-type: none"> 1 Misappropriation of Morphine, Demerol and Hydrocodone; intemperate use of Benzodiazepines and Ethanol 1 Intemperate use of Morphine, misappropriation of Fentanyl and Demerol; false documentation of physician's order for Fentanyl and Demerol 1 Failed to document the administration of Norco; withdrew Norco without a physician's order; misappropriated Lortab and Vicodin; made false entries regarding narcotic count 1 Charged with the 3rd degree felony offense of Unlawful Possession of a Controlled Substance 1 Lacked fitness to practice safely; intemperate use of Ethoanol resulting in a positive drug screen 1 Failed to document the administration of medications; misappropriated Morphine Sulfate and Demerol; falsified a physician's order; intemperate use of Benzodiazepines, Morphine, Meperidine, Normeperidine and Tramadol 1 Formal Charges Filed 1 Reported for duty with Alcohol on her Breath 1 Intemperate use of Amphetamine 1 Intemperate use of Amphetamine and Methamphetamine 2 Charged with the misdemeanor offense of Driving While Intoxicated 1 Intemperate use of Amphetamines; Cannabinoid and Marijuana 1 Increased her personal prescription for Methadone; misappropriated excess Dilaudid; lacked fitness to practice; completed a twenty-eight (28) day inpatient treatment program 1 Intemperate use of Alcohol and Cocaine <u>2</u> Lacked fitness to practice <p>17</p>
26	<p>VOLUNTARY SURRENDER</p> <ul style="list-style-type: none"> 12 Non compliance with previous Board Order 2 Disciplinary action by another Licensing Board 1 Intemperate use of Cocaine; TPAPN Agree Board Order 1 Falsified a renewal application; lacked fitness to practice 1 Transferred a patient without a physician's order; emotionally abusive to a patient; intemperate use of Cocaine 1 Charged with the misdemeanor offenses of Driving While Intoxicated and Possession of a Controlled Substance 1 Charged with two counts of the misdemeanor offense of Driving While Intoxicated; lacked fitness to practice nursing; falsified renewal application 1 Intemperate use of Alcohol, non compliant with previous Board Order 1 Observed shaking one patient and spanking another 1 Intemperate use of Fentanyl; Morphine and Opiates; misappropriation of Duragesic patches, Morphine Sulphate and Fentanyl 1 Misappropriation of Ativan; Convicted of the misdemeanor offense of Driving While Intoxicated 1 Misappropriation and intemperate use of Vicodin and Lortab 1 Misappropriated a prescription pad belonging to a supervising physician; assisted and allowed a patient to pass a forged/unauthorized prescription <u>1</u> Submitted a statement of Voluntary Surrender <p>26</p>

179

APPLICANTS/ PETITIONERS

- 8 Denial of Licensure
- 17 Non disclosure of criminal history
 - 1 Charged with the misdemeanor offenses of Driving While Intoxicated; Possession of Marijuana; Careless Driving and two counts of Theft by Check
 - 1 Charged with the offense of Tampering with Government Records
 - 1 Charged with the felony offense of Sexual Assault and the misdemeanor offenses of Possession of Marijuana and Theft
 - 1 Charged with the felony offense of Manslaughter
 - 1 Charged with the felony offense of Unauthorized use of a Motor Vehicle and the misdemeanor offenses of Driving While Intoxicated and Assault Causing Bodily Injury
 - 1 Charged with the misdemeanor offenses of Criminal Trespass and Driving While Intoxicated
 - 1 Charged with the 3rd degree felony offense of Assault on a Public Servant
 - 1 Charged with the felony offense of Forgery
 - 1 Charged with the offenses of Wrongfully Distributing a Controlled Substance - LSD and Unlawful use of LSD
 - 1 Charged with the 2nd degree felony offense of Burglary of a Building
 - 1 Charged with the misdemeanor offense of Driving While Intoxicated; disciplinary action taken by the LVN Board
 - 1 Charged with the misdemeanor offense of Driving While Intoxicated and two counts of Larceny
 - 1 Charged with three counts of the misdemeanor offense of Theft
 - 1 Charged with the misdemeanor offenses of Aggravated Theft; Minor in Possession; Theft of Property and Failure to Identify a Fugitive
 - 1 Charged with the felony offense of Possession of a Controlled Substance in a Drug Fee Zone
 - 1 Charged with the felony offense of Illegal Investment and the misdemeanor offense of Driving While Intoxicated
 - 1 Charged with the misdemeanor offenses of Public Intoxication and two counts of Driving While Intoxicated
 - 1 Charged with the felony offense of Unlawful Possession of Marijuana
 - 1 Diagnosed with Bipolar Disorder Type II and Bulemia Nervosa
 - 2 Diagnosed with Bipolar I Disorder
 - 1 Charged with the 2nd degree felony offense of Possession of a Controlled Substance and the misdemeanor offenses of Minor in Possession; Disorderly Conduct; Theft and Burglary of Habitation
 - 1 Charged with the misdemeanor offense of Public Intoxication and two counts of Driving While Intoxicated
 - 1 Charged with three counts of the misdemeanor offense of Theft by Check
 - 1 Charged with the state jail felony offense of Theft
 - 1 Diagnosed with Depressive Disorder NOS
 - 1 Charged with the misdemeanor offense of Possession of a Controlled Substance and two counts of Theft of Property
 - 1 Charged with the offenses of Possession of Illegal Narcotics and Driving While Intoxicated
 - 1 Charged with the felony offense of Credit Card Abuse
 - 1 Charged with the misdemeanor offenses of Possession of Marijuana; Theft; Possession of Intoxicating Liquor by a Minor and Driving While Intoxicated
 - 1 Charged with the misdemeanor offenses of Minor in Possession and Theft
 - 1 Charged with the misdemeanor offenses of Failure to Comply with the Requirements of Striking an Unattended Vehicle; Driving While Intoxicated and Public Intoxication
 - 1 Diagnosed with Bipolar Mood Disorder, Type III
 - 1 Charged with four counts of the state jail felony offense of Credit Card Abuse
 - 1 Charged with the misdemeanor offenses of Shoplifting; Petty Theft and two counts of Public Intoxication
 - 1 Charged with the felony offense of Possession of Marijuana
 - 1 Charged with the misdemeanor offense of Theft and two counts of the felony offense of Possession of Cocaine
 - 1 Charged with the felony offenses of Aggravated Assault with Serious Bodily Injury and Robbery

116 No Grounds for Denial/Youthful Indiscretion

179

33

ENDORSEMENTS

- 2 Denial of Licensure
- 1 Charged with the state jail felony offense of Forgery of a Financial Instrument
- 1 Charged with the 3rd degree felony offense of Possession of a Controlled Substance - Cocaine
- 1 Charged with the felony offense of Forgery and the misdemeanor offense of Possession of a Controlled Substance - Valium
- 1 Charged with six drug related offenses; failure to disclose airman medical certification denial
- 5 Failed to disclose criminal history on application
- 1 Charged with the misdemeanor offenses of Issuance of a Bad Check; Driving While License Suspended and two counts of Failure to Obey Court Order
- 4 Disciplinary action taken by another Licensing Board
- 17 No Grounds for Denial

33

**THE COUNCIL OF STATE GOVERNMENTS
SUPPORTING CRIMINAL BACKGROUND CHECKS FOR NURSES
APPLYING FOR STATE LICENSURE**

Resolution Summary

While most interaction between nurse and patient is mutually beneficial, there is always a chance that the health care provider is capable of harm, incompetence, neglect or abuse. There is a measure of trust that the patient has in the nurse, as patients are often times vulnerable, disabled and susceptible to malicious intent. In the interest of protecting the public, nurses are held to a high standard. It is the duty of the state board of nursing to determine which individuals that are applying for licensure pose any type of risk to the public. A fingerprint based background check is essential to making this determination.

Traditionally, inquiries into an applicant's background have taken the form of a question on an application form, and case-by-case reviews were used to determine application status. In 1990, the first board of nursing conducted a criminal background checks on licensure applicants. Soon, other boards began to explore requiring such checks. By 1996, National Council of State Boards of Nursing (NCSBN) adopted a resolution directing NCSBN to develop resources to support member boards' decision-making regarding criminal convictions. In response to that resolution, policy recommendations and a supporting paper, *Criminal Convictions and Nursing Regulation*, were brought to the 1998 Delegate Assembly. That year, a policy recommendation was adopted that recommended boards of nursing conduct criminal background checks on applicants for nursing licensure.

In 1998, NCSBN developed a paper titled *Uniform Core Licensure Requirements*, which contained conduct expectations for self-reports, including all felony convictions, all plea agreements and misdemeanor convictions of lesser included offenses arising from felony arrests. Fingerprint based criminal background checks were included to validate self-reports. This requirement was found to be consistent with the aforementioned policy recommendation to conduct criminal background checks on candidates for nurse licensure. In the autumn of 2004, NCSBN developed a model process for conducting criminal background checks. Today, many boards of nursing are more interested in how to conduct such checks, and support fingerprint based criminal background checks.

In 2005, NCSBN adopted the Model Process for Criminal Background Checks and the supporting concept paper, *Using Criminal Background Checks to Inform Licensure Decision Making*, for use by member boards. This resolution encourages states to enact legislation requiring criminal background checks for all applicants for nurse licensure and to work with state boards of nursing to implement this policy.

Additional Resource Information

Criminal Convictions and Nursing Regulation: A Supporting Paper
-- Cooper, G. and Sheets, V. (1998) National Council of State Boards of Nursing

Using Criminal Background Checks to Inform Licensure Decision Making
-- National Council of State Boards of Nursing (2005)

National Council of State Boards of Nursing
www.ncsbn.org

Nurses Background Check Management Directives

- Management Directive #1: Create a sense of urgency concerning the need for criminal background checks for nursing applications and licensure as a public safety issue.
- Management Directive #2: Support efforts to better serve the public through diligent and thorough screening of all nursing applicants.
- Management Directive #3: The Council of State Governments' Health Policy Task Force will post approved resolution on The Council of State Governments' Web site and work with the National Council of State Boards of Nursing to ensure distribution to a wide audience in the states and nationally.

THE COUNCIL OF STATE GOVERNMENTS' HEALTH POLICY TASK FORCE

RESOLUTION ON SUPPORTING CRIMINAL BACKGROUND CHECKS FOR NURSES APPLYING FOR STATE LICENSES

WHEREAS, Nurses work with vulnerable populations, and it is in the interest of public safety to review nurse licensure applicants' past criminal behavior in determining whether they should be granted a license to practice nursing in a state or territory;

WHEREAS, Applicants for nurse licensure with criminal histories may not be truthful on applications, and fingerprint based background checks are valuable in identifying past criminal behavior;

WHEREAS, In 1990 the California Board of Registered Nursing began to conduct fingerprint based criminal background checks, and in 1998 the National Council of State Boards of Nursing (NCSBN) reported five states were authorized to use fingerprint based criminal background checks and that number increased to 18 boards of nursing in 2005 utilizing criminal background checks. That progress has been significant, but more states need to address this issue;

WHEREAS, Boards of nursing assure the security and confidentiality of the background information and must comply with any state or federal requirements to obtain access to state criminal background checks, making this process fair to licensure applicants;

WHEREAS, Public Law 92-544 provides funding to the Federal Bureau of Investigations (FBI) for acquiring, collecting, classifying, preserving and exchanging identification records with duly authorized officials of the federal government, the states, boards of nursing, cities, and other institutions;

BE IT NOW THEREFORE RESOLVED, that The Council of State Governments' Health Policy Task Force urges states to conduct fingerprint based criminal background checks on all nurse licensure applicants (both for initial licensure, and subsequent licensure endorsement into other states and territories) through including this provision in the jurisdiction's Nurse Practice Act;

BE IT FURTHER RESOLVED, that The Council of State Governments' Health Policy Task Force recommends that states work with their boards of nursing in developing plans to conduct nurse licensure criminal background checks, considering the following policy questions:

1. Assess and strategize what are the current workload and resource implications?
2. What are the questions needed on the licensure application regarding an applicant's criminal past?

3. Should criminal background checks be implemented from a point forward or with grandfathering of individuals already licensed?
4. Should temporary permits be issued for nurse licensure applicants awaiting criminal background checks?
5. What will the policy for non-readable fingerprints entail?
6. What will the appeal process be for an applicant or licensee?

Adopted this 4th Day of December, 2005, at the
CSG Annual Task Force and Committee Meeting in
Wilmington, Delaware

Governor Ruth Ann Minner
2005 CSG President

Assemblyman Lynn Hettrick
2005 CSG Chair