

RN UPDATE

A Quarterly Publication of the Board of Nurse Examiners for the State of Texas

ACCREDITATION

LICENSURE

PRACTICE

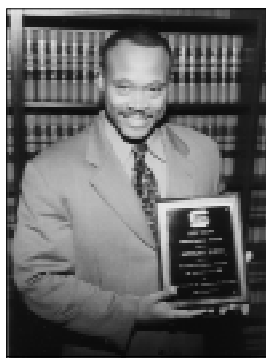
COMPLIANCE

October 1998

Volume 29, No. 4



BNE Investigator Recognized as Investigator of the Year



Anthony Diggs, CLEAR Investigator of the Year

Anthony Diggs, Director of Investigations for the Board of Nurse Examiners, was chosen as Investigator of the Year by the Council on Licensure, Enforcement and Regulation, an international association for professional and occupational regulators

(CLEAR). CLEAR promotes excellence through professional regulation throughout the US and other countries. The award was presented on September 16th at the CLEAR Conference in Denver, Colorado. This is the first time this honor has been awarded by the Council on Licensure, Enforcement and Regulation.

Mr. Diggs has been employed with the Board of Nurse Examiners since December 11, 1989 when he was hired as an Investigator. He was promoted to Supervising Investigator on September 12, 1995 and became Director of the Investigations/Compliance Department on January 1, 1997. His expertise has been recognized statewide as he has offered training at the Texas Attorney General's Law and Liability Conference. Nationally, Mr. Diggs has conducted training at CLEAR and at the National Council of State Boards of Nursing.

In his role as Director of Investigations/Compliance, Mr. Diggs supervises 14 employees: 11 investigators and three support staff. He oversees all aspects of the investigations, from the training to final disposition of cases.

Committees Shape the Future of Professional Nursing Regulation

The committees appointed by the Board of Nurse Examiners play a vital role in the preparation of rules and regulations that govern the practice of professional nursing. Committees look at the complexities of nursing from the perspective of the diverse backgrounds that individual committee members bring. RNs from across the state and from many different work settings travel to Austin to participate in the various committees utilized by the Board.

There are currently five committees assisting the Board. They are the Advanced Practice Nursing Advisory Committee (APNAC), the Advisory Committee on Education (ACE), the Competency Advisory Committee (CAC), the Laws and Regulations Advisory Committee (LRAC), and the Nursing Practice Advisory Committee (NPAC). Beginning on page four, we introduce you to the committees, their members, and past, current and future projects.

IN THIS ISSUE

Alternative Therapy Position Statement

Helpful Tips for License Verification

A Word from the Executive Director



Update on Multistate Regulation

Prompted by an increase in nursing practice across state lines, the National Council of State Boards of Nursing has spent the past three years exploring a licensure model for the future. Boards of

Kathy Thomas, MN, RN Nursing across the country have noted an increase in nursing practice across state lines, either by telecommunications technologies, the Internet, or by nurses physically crossing state boundaries.

RN Update has published several previous articles on this subject and a proposed model to facilitate the multistate practice of nursing. The proposed model, called Mutual Recognition, maintains a state based licensure system but requires the nurse to hold only one license, in the state of residence. It functions like the current driver's license model in that the individual holds only one license where he/she resides, but may practice in any state. Like the driver's license model, the nurse must comply with the laws in the states where he/she practices. The model is implemented through an interstate compact, an agreement adopted by states.

In the cover article to the July 1998 issue of this publication, readers were informed that some professional nursing associations had raised concerns about some aspects of the interstate compact. The key issues raised by these associations are whether licensure should be in the state of residence or the state of practice, the need for broad based input into rule making processes to implement the compact, and confidentiality of information in the national nursing licensure data base being created to support the compact. Each of these are valid concerns, and although they were considered in the development of the compact, some alternatives are being discussed with the associations. Several meetings at both the national level and among states who share an interest in the model have been conducted to address these issues. These meetings have been very productive, leading to an increased understanding of the concerns by all parties. It is hoped that these cooperative efforts will result in resolution of the issues, leading to implementation of a model of regulation which meets the needs of the public in the 21st century.

BOARD MEMBERS 1997 - 1998

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Kathy Thomas, MN, RN



Proposed and Adopted Rules

by Erlene Fisher

At their May 21, 1998, meeting, the Board took the following action in relation to rules:

- *Proposed amendments to §217.3 and §217.12 regarding the discontinuation of the temporary permit for new graduates. [Refer to: (1) July issue of RN UPDATE for the rationale and action of September 17-18, 1998 meeting, and (2) September 17-18, 1998 action below.]*

At the meeting of the Board held on July 16-17, 1998, the Board took the following action:

- *Proposed an amendment to §221.7, Advanced Practice Nurse, New Graduate. The proposed language was printed in the August 6, 1998 issue of the Texas Register. The amendment addresses reeducation for APNs who have not successfully passed the certification examination within two years of graduation or within three attempts. One favorable comment was received and, subsequently, adoption of the amendment was printed in the September 25, 1998 issue of the Texas Register. The amendment will be implemented October 1, 1998.*

At their September 17-18, 1998 meeting, the Board took the following action:

- *Proposed the withdrawal of consideration of the amendments to §217.3 and §217.12; therefore, rule 217.3 regarding temporary permits remains in effect. Additional information may be found in this newsletter on page 17. Withdrawal of the amendment was printed in the October 2, 1998 issue of the Texas Register.*
- *Proposed amendments to §222.1 and §222.4 relating to Prescriptive Authority for APNs. These amendments will align the rule with the language set out in HB 2846 passed during the 75th Legislative Session. The proposed amendments were printed in the October 9, 1998 issue of the Texas Register.*
- *Proposed the repeal and new Chapter 215, Education. Detailed information can be found in the Advisory Committee on Education report in this newsletter on page 8. The proposed new Chapter 215 was printed in the October 9, 1998 issue of the Texas Register.*

1998-1999 BNE BOARD MEETING SCHEDULE

1998
November 19-20

All meetings to be held in Austin

1999
January 21-22
April 22-23
July 22-23
October 28-29

BNE Committees Work to Shape the Future of Professional Nursing

The Board of Nurse Examiners views its advisory committees as invaluable mechanisms for addressing complex issues of professional nursing regulation. Committees play a vital role in rule changes that apply to nurses of all specialties and levels of experience. Committee members are derived from communities across the state bringing a diverse knowledge base to the groups. Committees consist of Board members, board staff, and members at large. Five committees are currently engaged in work for the Board. Listed below are the committees, their members and their recent projects.

Advanced Practice Nursing Advisory Committee (APNAC)

The Advanced Practice Nursing Advisory Committee provides the Board with recommendations concerning advanced practice nursing and education. The APN Advisory Committee's recommendations were the basis for the Board's decision to require a master's degree for APN recognition beginning January 1, 2007. Current members are:



Kenneth Lowrance, MS, RN, CS, FNP-C
Chairperson, APNAC, Board of Nurse Examiners

Glenn Alexander, RN, CPNP
Deborah Antai-Otong, RN, MS, CS
Mary Brucker, RN, CNM, DNSc
Sr. Deborah Fuchs, CNM
Alice S. Hill, PhD, RN, CNS
Cindy Kuykendall, RN, CRNA
Linda Linville, MSN, RN
Beth Mancini, MSN, RN, CNA
Travis Pipkin, RN, FNP
Linda Rounds, PhD, RN, FNP
Elaine Sheets, RN, CS
Carolyn Sutton, MSN, RNC
Jim Walker, MS, RN, CRNA
Linda Woolbert, RN, PNP

*Nurse Practitioner Practice
Clinical Nurse Specialist in Practice
Nurse Midwifery Education
Consortium of Texas Certified Nurse Midwives
Clinical Nurse Specialist Education
Texas Association of Nurse Anesthetists
Texas Department of Health (TDH)
Texas Organization of Nurse Executives
Texas Nurses Association (TNA)
Graduate Nurse Practitioner Education
Texas Association of School Nurses
Certificate Nurse Practitioner Education
Nurse Anesthesia Education
Texas Nurse Practitioners*

The charges to be presented to the APN Committee at its November meeting include: 1.) whether Continuing Medical Education (CME) should be recognized as Type I CE for advanced practice nurses and 2.) whether APNs should be allowed to continue practicing as APNs when they fail their certification examination on their first attempt. Currently, APNs have two years in which they are required to pass their certification exam.

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Advisory Committee on Education (ACE)

The Advisory Committee on Education (ACE) was formed to consider nursing education issues, policies, and rule development. Past work of the committee include the development of new rules and guidelines for distance education initiatives. Members include:



Elizabeth Poster, PhD, RN
Chairperson, ACE, Board of Nurse Examiners

Phyllis Adams, EdD, CNS

Joann Bohm-Adair, MSN, RN

Kathleen Bond, EdD, RN

Joy Fleming, MSN, RN

Rosie Garcia, PhD, RN

Annette Hallman, MSN, RN

Rebecca Jones, DNSc, RN, CNAA

Barbara Lust, PhD, RN

Carolyn Parker, PhD

Kendra Slatton, MSN, RN

TNA

Texas Organization for Associate Degree Nursing (TOADN)

Texas Organization for Baccalaureate and Graduate Nursing Educators (TOBGNE)

Board of Vocational Nurse Examiners

Texas Organization of Associate Degree Nursing Diploma Nursing Education

TOBGNE

Texas League for Nursing (TLN)

Texas AIDS Network

Texas Organization of Nurse Executives (TONE)

The focus of the Advisory Committee for the last year has been to evaluate and make recommendations for revisions to Rule 215 relating to Nursing Education. The plan to evaluate and revise Rule 215 is part of the overall requirement of the legislature that all rules of all agencies be republished by 2001. For the latest information on the Committee's actions see page 8.

Competency Advisory Committee (CAC)

The Competency Advisory Committee, established by SB 617, is currently in the process of examining regulatory mechanisms to assure that RNs demonstrate minimum, essential competence for their area of professional nursing practice. Members during 1997-1998 include:



Kenneth Lowrance, MS, RN, CS, FNP-C
Chairperson, CAC, Board of Nurse Examiners

Denise Boldt, RN

Marge Bouvette, BSN, RNC

Janet E. Boyden, RNC

Ellarene Duis-Nittsche, MSN, RN

Roberta Eacott, MS, RN, CNAA

Texas Association for Home Care

Texas Health Care Association

Texas Association of Homes and Services for the Aging

Texas Nurses Foundation

Texas Dept. of Mental Health and Mental Retardation (TXMHMR)

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Alexia Green, PhD, RN
 Sharon Inman, MSN, RN
 Phyllis Karns, PhD, RN
 Nancy Perkins, MSN, RN
 Elizabeth Sjoberg, JD, RN

TNA
TONE
TOBGNE
TOADN
Texas Hospital Association

The Competency Advisory Committee is one of two committees established by Senate Bill 617 during the 75th Legislative Session. SB 617 authorized the BNE to fund pilot programs pertaining to continued clinical competence. The committee will next meet in the Spring of 1999.

Laws and Regulations Advisory Committee (LRAC)

The Laws and Regulations Advisory Committee (LRAC) was established under Senate Bill 617. LRAC was charged by the Board to evaluate the effectiveness of mechanisms to assure RNs' understanding of the laws and regulations governing the practice of professional nursing.

Members include:



Doris Price-Nealy, MSN, RN
Chairperson, Laws and Regulations
Board of Nurse Examiners

Thalia Munoz, MS, RN
 Patricia Becker, MSN, JD, RN
 Doris Black
 Carol Boswell, EdD, RN
 Elizabeth Higginbotham, JD, RN
 Lora Lee ("Lolly") Lockhart, PhD, RN
 Karen Lyon, PhD, RN, CS, CNAA
 Sandra Oliver, PhD, RN, CNS
 Dorothy Otto, EdD, MSN, RN
 Jo Rake, MSN, RN
 Nancy B. Schoenrock, PhD, RN
 Brenda Wilmore, MSN, RN
 Anthony Zara, PhD

Board of Nurse Examiners
Board Appointee
American Association of Retired Persons - TX
TOADN
American Association of Nurse Attorneys -TX
Board Appointee
TLN
TNA
Board Appointee
TONE
TOBGNE
Board Appointee
National Council of State Boards of Nursing

RN Update readers were given the opportunity to provide input to the committee through a survey form in the April 1998 edition. For more information about the survey results, see the Committee Update on page 8. The Laws and Regulations Committee is currently looking at the data gathered through the Laws and Regulations Survey.

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Nursing Practice Advisory Committee (NPAC)

The Nursing Practice Advisory Committee identifies, studies and analyzes major practice issues that have potential to or impact the practice of professional nursing. Most recent issues that NPAC has examined include: the nurses's role in the use of laser technologies and the role of the school nurse. Members include:



Mary Letrice Kemp Brown, BSN, RN
Chairperson, NPAC, Board of Nurse Examiners

Patricia Benbow, RN
 Laura Brown
 Linda Daum, RN
 Patty Esposito, MSN, RN
 Brenda Holbert Fernandez
 Carol Horan, RN
 Leigh Josephs, BSN, RN, JD
 Earl M. Landis
 Linda Linville
 Jennifer Markley
 Elizabeth (Bette) Michel
 Pearl Merritt, MSN, MS, RN
 Cissi (Martha) Oloomi
 Betty Shumate
 Mary Beth Thomas

Board Appointee
Consumer's Union
TONE
Board Appointee
Board Appointee
Texas Association for School Nursing
TLN
Texas Silver Haired Legislature
TDH
Texas Association for Home Care
Association of Deans and Directors
Texas Association of Homes for the Aging
Board Appointee
TXMHMR
TNA

NPAC recently studied the role of RNs in relation to alternative/complementary therapies and presented their recommendations to the September Board meeting. For more information, see pages 10-11.

For more information regarding any of the Board's advisory committees, please contact the following staff members at the Board's office:

Name of Advisory Committee

Advanced Practice Nursing Advisory Committee
 Advisory Committee on Education
 Competency Advisory Committee
 Laws and Regulations Advisory Committee
 Nursing Practice Advisory Committee

Staff Member

Nicki Potts, PhD, RN
 Donna Carlin, MSN, RN
 Anne Garrett, PhD, RN
 Sally Glaze, EdD, RN, CNS
 Kim Flores, MSN, RN

COMMITTEE REPORTS**APNAC To Consider New Charge**

The Advanced Practice Nursing Advisory Committee will meet November 12, to consider whether the rules concerning Continuing Medical Education (CME) should be changed to allow advanced practice nurses to receive Type I CE credit for CME courses. APNAC will also look at initial examination requirements for advanced practice nurses. Currently, advanced practice nurses have two years to take and pass the certification exam for their area of specialization. They are allowed three attempts to pass the exam. The committee will examine whether nurses should continue to be recognized as an advanced practice nurses after they fail their first attempt at the certification examination.

Advisory Committee on Education Approves Proposed Changes to Rule 215

The Advisory Committee on Education (ACE) met four times during the Spring and Summer of 1998 to review and make suggestions for revisions to Rule 215. At their last meeting on July 10, 1998, the committee finalized and approved proposed changes to Rule 215 which were presented to the Board of Nurse Examiners at their September 17, 1998 meeting.

The proposed changes include major reorganization of sections of the rules for clarity, the elimination of redundancy, simplification of language, and the deletion of processes and lists which will be put into guidelines if the rules are approved.

Significant areas of change to the proposed Rule 215 include: a new section of rules for transfer of administrative control by governing institutions; a new section of rules regarding proposals for innovative approaches to nursing education; clarification of the faculty/student ratio in clinical as 1:10 and elimination of reference to direct care; a limit to the amount of observational experiences in clinical; the elimination of approval for minor curriculum changes; a change in the pass rate criterion for first time candidates on the NCLEX-RN® examination; and a requirement for prior approval by the board for new Deans/Directors.

At the September 17 meeting, the board voted unanimously to repeal the current version of Rule 215 and authorized staff to publish proposed Rule 215 in the Texas Register with a comment period of 60 days. The proposed new rules with rationale for each change will be sent to Deans/Directors of all pre and post-licensure professional nursing education programs accredited by the board for review.

Laws and Regulations Advisory Committee

The committee has continued to work to identify the laws and regulations which the RN needs to know and understand for his or her nursing practice. The first stage of this work has focused on which laws and regulations would enter into a set of minimal expectations. Identification of these laws will constitute the content from which a nursing jurisprudence examination can be constructed for applicants who are requesting initial licensure in Texas.

In order to study the validity and reliability of a jurisprudence examination, nursing programs in Texas will be contacted and requested to participate in the validation process with the graduating class of May 2000. A request will shortly be issued for psychometric services to develop, construct, and analyze an examination.

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Laws and Regulations - Continued

Committee members are also continuing to identify laws and regulations beyond the minimal level and are considering appropriate mechanisms to ensure understanding of these for the RN who is in practice.

RN Survey Being Analyzed

LRAC developed a survey which was published in the April 1998 *RN Update*. Responses to the survey, "Registered Nurses' Perceptions of Regulatory Parameters of Practice," have been tabulated and are currently being analyzed in order to have a full report to RNs in the next issue of *RN Update*.

There were 2799 responses sent in which has necessitated additional assistance to evaluate all the data. The Center for Nursing Research at the UT-Houston, Health Science Center, School of Nursing did the initial analysis of frequencies and requested correlations. The graduate nursing students of the University of Phoenix, El Paso Campus, are working on further analysis of the computerized results as part of their advanced nursing research coursework. The members of the advisory committee and board staff are very grateful for the efforts and assistance from these groups. The committee especially expressed appreciation to the individual RNs who sent in their responses to the questionnaire, and to those individuals writing additional comments and letters expressing their concerns about today's nursing practice and support for the work of the committee.



Professional Boundary Pamphlets Available from National Council

The National Council of State Boards of Nursing has recently produced a pair of pamphlets available for registered nurses through the National Council WEB site located at <http://www.ncsbn.org/>. The pamphlets, **A Nurse's Guide to the Importance of Appropriate Professional Boundaries**, **A Consumer's Guide to the Expected Behavior of a Health Care Provider**, and several other nursing education related reports are available in the National Council's Online Library as Adobe Acrobat® PDF files. If you do not have Internet access, you can contact Phil LaForce at the National Council and he will send copies of the pamphlets to you. The phone number is: (312) 787-6555, ext. 122.

The National Council recently produced a videotape/training packet to accompany the **Professional Boundaries** pamphlet titled "Crossing the Line: When Professional Boundaries are Violated". It is available for use by educational institutions or others interested in differentiating between a professional therapeutic relationship and over-involvement with a patient. The cost of the program is \$249.00 plus shipping and handling. The packet includes the video, slides/transparencies, facilitator guides, interactive learning exercises and detailed references. For more information, contact Jamie Lee at (615) 321-5066.

Position Statement Revision Addresses RN Participation in Alternative/Complementary Therapies

During the past year, the Board of Nurse Examiners has explored the issue of RN participation in alternative/complementary therapies. Information has been presented from a nursing education program which incorporates these concepts and from Board members and BNE staff who have attended several continuing education programs in these areas, as well as board member review of current professional literature on the subject.

At the July 1998 meeting, the Board referred the issue of RN participation in alternative/complementary therapies to the Nursing Practice Advisory Committee (NPAC). Letrice Brown, RN, Board member representing nursing practice, chaired the NPAC meeting on August 28, 1998 to address this charge.

Similar to the discussion among Board members, NPAC members were aware of many different types of alternative/complementary therapies and acknowledged the increased use of many of these therapies by consumers. Discussion focused on the importance of the RN asking questions regarding the patient's use of alternative/complementary therapies while conducting the nursing assessment. Committee members agreed that it is in the interest of the patient for RNs to be knowledgeable about the use of patient initiated alternative/complementary therapies in the RN's assessment and plan of care.

Rather than focus on a particular type of alternative/complementary therapy, the committee decided to focus on the RN's obligation to use the nursing process to *assess* for use of alternative/complementary therapies by the patient, to include any patient use of alternative/complementary therapies in the *plan of care*, and to *evaluate* response to such therapies.

NPAC members also agreed that the RN who incorporates the use of alternative/complementary therapies in his/her practice must comply with provisions of the Nursing Practice Act (NPA) and the Board's rules and regulations including the Standards of Professional Nursing Practice specified in Rule 217.11.

Based on their review and discussion, the committee recommended to the Board an amendment to address alternative/complementary therapies in Position Statement 15.15, Board's Jurisdiction Over Title and Practice, rather than recommend a separate position statement on the subject. Position Statement 15.15 reiterates the RN's obligations under the NPA and Board's rules in all services provided as an RN.

At the September 17, 1998 meeting, the Board adopted the recommendation from the NPAC and approved the language to address alternative/complementary therapies in Board Position Statement 15.15.

Position Statement 15.15, with the new approved language, follows in its entirety on page 11.

**Board of Nurse Examiners
P.O. Box 430
Austin, Texas 78767-0430**

POSITION STATEMENT

15.15

BOARD'S JURISDICTION OVER TITLE AND PRACTICE

Individuals who hold licensure as registered professional nurses in Texas are responsible and accountable to adhere to the Nursing Practice Act and Rules and Regulations of the Board of Nurse Examiners. Standards of professional nursing practice require that each RN practice to the level of their knowledge and skills. The Board, through its Rules and Regulations, further communicates the expectation that the RN must intervene appropriately to protect and promote client health and well being.

RNs Functioning in LVN or Unlicensed Positions

As a result of recent changes in health care delivery systems, RNs have begun to be employed in lower positions (LVN and unlicensed positions), with purportedly fewer responsibilities. The Board holds a licensed registered professional nurse, who is working in a lower level position, responsible and accountable to the level of education and competency of an RN. (Board Action, 1/95)

Use of the Title "RN" when Providing Related Services

Further, the use of the title Registered Nurse or any designation tending to imply that one is a licensed RN is limited to those licensed by the Board. The use of this title is restricted by law to assure the public that professional nurses are competent and accountable to the Nursing Practice Act and Board rules. The public relies on the Board to set and enforce standard of practice for all licensees. Use of the title to attract clientele or secure employment without intent to comply with the Nursing Practice Act (NPA) and the Board's rules is deceptive to the public and would be considered unprofessional conduct by the Board.

In the opinion of the Board, the expressed or implied use of the title RN requires compliance with the NPA and rules and regulations. Therefore, licensed professional nurses choosing to provide services, including but not limited to, midwifery, micro pigment implantation, chemical skin peels, hair transplantation, scleral therapy, **and use of alternative/complementary therapies** must comply with the NPA and Board's rules just as any other licensed professional nurse. **(Board Action, 9/98)**



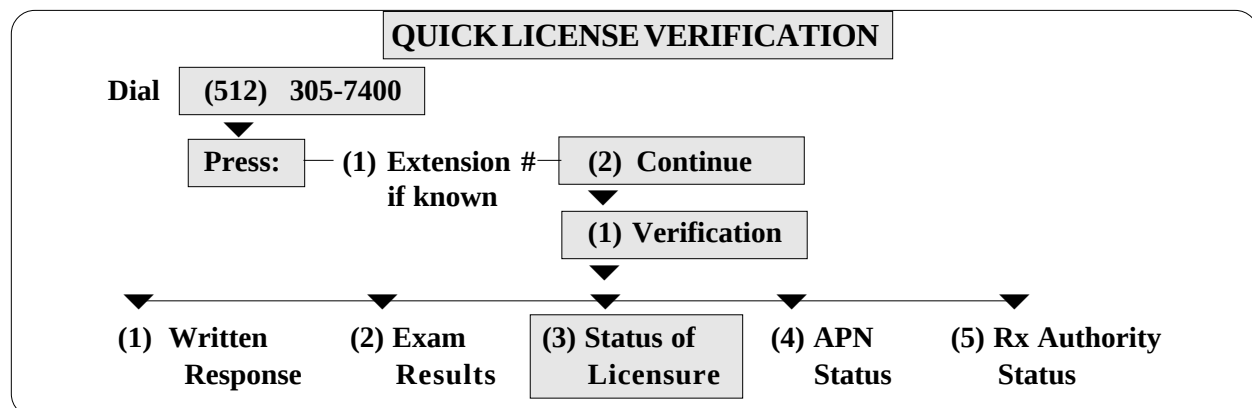
Licensing Update

Your Actions Can Help Avoid Long Waits When Checking Licenses

It is probably no surprise to anyone that when calling the Licensing Department, there are sometimes long delays. These delays are as time consuming and frustrating for the staff as for each of you, and the licensing staff has been trying to develop ways we can reduce the waiting time within our limitations while giving you the information you need. We realize it takes longer to talk to someone who is already frustrated and angry than it does to someone calling straight through, so working on this problem will benefit us both. In future issues, we will be providing more information about the anticipated changes as they develop, but in the meantime, here are some quick tips for you to avoid long waits on the phone.

- Use the automated system on the BNE's main phone number for verification (See chart below).
- Use this system at times other than 8:00 a.m. - 5:00 p.m. including weekends. These calls as well as direct line calls fall off dramatically during those times. For example, use evening or night staff to verify licenses rather than Personnel Officers who usually work 8-5 weekdays.
- Licensure processing can take 10 days; repeated calls checking on licensure status clogs the system for everyone.
- If possible, call during the second and third week of the month. Calls are especially heavy at the last week of each month and the first week of the next month when renewal time runs short or the license has expired. Be prepared for longer than usual waits.
- Have your license number and social security number ready before calling. Hunting for these adds time and causes delays for others.
- For duplicate license requests, besides license number and social security number, we also need your address to verify and to mail it to you.
- Above all, keep your address current. Every month we have many renewals returned undelivered resulting in expired licenses, additional delinquent fees and phone calls.

We hope these tips will result in faster service for you. In future *RN Updates*, we will advise you of our efforts to improve access to licensure information. In the meantime, the following quick guide should make automated verification easier and faster.



You can choose to verify by license number or by social security number. The entire process can be done in a little more than a minute. Last year almost 160,000 licenses were verified in this manner.

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Licensing

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Change of Address by Fax or E-Mail

In addition to notifying the Board in writing, there are also faster ways to send notice of change of address:

1. If you have access to the Internet, you can inform the Board about address change information by way of e-mail. Your message will need to include: your name, license number, social security number, old address and new address. Send your e-mail to **webmaster@mail.bne.state.tx.us**.
2. Change of address can also be done via facsimile. You should include the same information included above. Your request can be neatly handwritten. The fax number at the Board is **(512) 305-7401**. NO change of address notice may be taken by telephone.

**The NCLEX® Depends on You!**

The National Council of State Boards of Nursing, Inc. seeks NCLEX® examination item developers and reviewers. The National Council encourages interested persons to help develop the NCLEX® examination!

Test Writer

To be considered, you must be an RN who has a master's degree (for NCLEX®-RN) or be an RN or LPN/LVN (for NCLEX®-PN). You must be responsible for teaching basic/undergraduate students in the clinical area OR be employed in clinical nursing practice; and have knowledge of the current scope of entry-level nursing practice.

NCLEX Item Reviewer

To be considered, you must be an RN (for NCLEX®-RN) or an RN or LPN/LVN (for NCLEX®-PN); and be employed in clinical nursing practice AND work DIRECTLY with nurses who have entered practice in the past 12 months (e.g., staff nurses who work collaboratively with entry-level nurses, assistant head nurses, head nurses, clinical nurse specialists and certain staff educators).

As a panel member you receive many benefits including: continuing education units, a chance to meet and dialogue with nurses from around the country, and the opportunity to acquire new skills useful in the work setting. As participants in this process, you will have the opportunity to attend a 3-5 day workshop with all related expenses paid by the test service.

If you meet the qualifications and are interested in participating, contact the National Council. You can obtain an application for either position by visiting National Council's WEB site at **<http://www.ncsbn.org>**. If you have any questions, please send an e-mail to **nclexinfo@ncsbn.org** or call the National Council at **(312) 787-6555 ext. 496**.

“Safe Harbor” Offers Avenue for Protection from Disciplinary Action

by Kim Flores, MSN, RN

Q. I have heard another RN talk about “Safe Harbor” but I do not understand the details surrounding this concept. How can “Safe Harbor” help me? Does it somehow relate to Peer Review?

A. The term “Safe Harbor” refers to an avenue of protection for an individual, in this case the RN. This concept of Safe Harbor is a result of an amendment to the Nursing Practice Act (NPA) enacted during the last Texas legislative session. The language in the NPA which was changed as a result of HB 1081 became effective on September 1, 1997. This language may be found in Article 4525d (c) in the NPA. Prior to this new statutory language, Article 4525d of the NPA stated that an entity may not suspend, terminate, discipline or discriminate against nurses who refuse to engage in acts which they determine may be harmful to a patient. However, although the provision was present, there was no real explanation of the process an RN could use if these types of situations arose. As result of HB 1081 (1997), the NPA contains more specific, directional language for the RN to use in these circumstances.

This change to the NPA provides an opportunity for a RN to request a Peer Review of situations and/or directions that the RN feels could cause an infraction of his/her duty under the NPA and the Board’s rules. Thus, the RN is able to advise his/her supervisor, at the time the assignment is made, that acceptance of this direction would, in the RN’s opinion, constitute grounds for being reported to the BNE for violation of the Nursing Practice Act, and that he/she is invoking the Safe Harbor provision of the NPA.

At that time, or as soon as possible, the RN would use the BNE document (see the BNE web site, “Safe Harbor Form”) to explain his/her reservation about acceptance of the direction. The RN may also use this opportunity to suggest ways to improve the situation. The form then passes on to the supervisor who fills out one section of the form to explain why the assignment was made. The form is then sent to the agency’s Peer Review Committee for discussion of the situation. In this way, the peer review process is used, not with a disciplinary focus, but rather as an opportunity for professional RN discussion on systems problems and recommendations for solutions. During this process, the RN is sheltered by “Safe Harbor” from any BNE disciplinary action associated with the particular situation being reviewed.

So, what does this mean for nurses? Let’s walk through one example of a situation for which an RN would request a peer review under the new language of the Act. An RN is assigned to a general medical-surgical unit. The unit, and indeed the hospital, has experienced chronic under staffing for the past several months. The RN already is assigned several patients with high acuity levels. The supervisor tells the RN that he needs to accept two new admissions from the emergency room. The RN tells the supervisor of his concern with the increased patient load due to his inability to provide safe patient care. The RN also reminds his supervisor that Rule 217.11 (17) obligates all RNs *“to accept only those nursing assignments that are commensurate with one’s own educational preparation, experience, knowledge and ability,”* as well as Rule 217.11 (15), which obligates the RN supervisor to *“only make assignments to others that take into consideration client safety and which are commensurate with the educational preparation, experience, knowledge and ability of the person to whom the assignments are made.”* The supervisor tells the RN that there is no one else to take these two additional patients. The RN tells the supervisor he will accept the assignment if he has a nurse’s aide to assist him. The RN also requests that the nurse manager be apprised of the situation and if an emergency arises another nurse would be made available. The RN

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Safe Harbor - cont. from previous page

then tells the supervisor at the same time, he is invoking the "Safe Harbor" provision. The RN requests a peer review of the circumstances due to his concern of providing patient care under potentially unsafe conditions and which, in his judgment could potentiate a violation of his obligation under Rule 217.11 (17). The RN fills out his portion of the form and forwards it to his nurse manager.

The form, which not only includes the situation but also includes the RN's suggestions and solutions, is forwarded through the nurse administrator to the peer review committee. The RN who invokes Safe Harbor should be prepared to offer suggestions and solutions to the committee as well. The committee evaluates and discusses the situation. The committee will make a determination if, in fact, the supervisor's decision to add two patients to an already high patient load could have possibly led the RN to violate Rule 217.11 (17) or the committee may decide the assignment posed no potential harm and, therefore, was not a violation to the NPA. The decision made by the committee will be forwarded to the facility's Nurse Executive for his/her conclusions and finally back to the RN who initiated the peer review.

Another important provision of SB 1081 allows a nurse to request that a determination be made on the medical reasonableness of a physician's order. In this situation, the Safe Harbor Form goes to the Medical Director for his comments before being reviewed by the committee.



Practice Question and Answer

by Karen Burk, BSN, RN,C and Kim Flores, MSN, RN



Q. I am aware of a practice in my agency that is questionable. RNs retrieve medications from clients who no longer come to the facility and save them to be administered to other patients who may not have the capability of obtaining their own medication(s). Is this legal?

A. The practice you describe is a violation of provisions of state and federal laws and associated rules and regulations which govern storage, dispensing and administration of medications. For example, if the medications you are referring to are controlled substances, the described "stockpiling" of drugs is in violation of the Health and Safety Code, Chapter 481, Texas Controlled Substances Act. Another applicable law may be the Federal Controlled Substance Act. Since the Board's Rule 217.11 Standards of Professional Nursing Practice states: "... the RN shall (1) know and conform to the Texas Nurse Practice Act and the board's rules and regulations as well as all Federal, State, or local laws, rules or regulations affecting the RN's current area of nursing practice," the RN should be aware of and

comply with this state law. Policy and procedure of your agency should be written to explain the RN's obligation in the disposal of unused medications in your facility.



Workshop Update

The last workshop for 1998 is scheduled on November 4 in El Paso. The El Paso workshop will be held at the El Paso Marriott, 1600 Airway Blvd. This workshops will be an update on nursing practice, addressing nursing issues for all RNs. If you are interested in attending, but have not received a brochure, one may be requested by e-mail at harrish@mail.bne.state.tx.us or by calling (512) 305-6840.

Upcoming workshops in 1999 have been scheduled for Beaumont on January 27, and in Austin, February 25, 1999. Other 1999 workshops are currently being scheduled for San Antonio, Dallas, Corpus Christi, Arlington, Abilene and Houston.



EDUCATION REPORT

By Donna Carlin, M.S.N., R.N.

July 1998 Board Action:

Approved the **University of Texas Health Science Center at San Antonio** Baccalaureate Degree Nursing Program's proposal for a distance education initiative to deliver the RN-BSN program to Del Rio in collaboration with Sul Ross State University.

September 1998 Board Action:

Approved **Stephen F. Austin University** Baccalaureate Degree Nursing Program's proposal for a distance education initiative to deliver the RN-BSN program to Lufkin in collaboration with Angelina College.

Approved **Del Mar College** Associate Degree Nursing Program's proposal for a distance education initiative to deliver the LVN-ADN track in cooperation with Coastal Bend College to sites in Beeville, Alice, and Kingsville.

Approved **Prairie View A & M University** College of Nursing's Phase I proposal to develop an advanced practice nursing program that prepares Family Nurse Practitioners.

Approved faculty petition waivers:

Tyler Junior College, ADN Program, Lucina Krell

South Plains College, Levelland, ADN Program, Jill Pitts

Approved Interim Director waiver:

Angelo State University, BSN-RN Program, Molly Allison

TEXAS RN PARTICIPATES ON NATIONAL COUNCIL COMMITTEE

The following Registered Nurse has volunteered her time to serve on a committee for the National Council of State Boards of Nursing:

NCLEX-RN® examination Item Reviewer:

NAME

Louise M. LaVane

EMPLOYER

Columbia Woodland Heights Med. Center
Lufkin, Texas

SPECIALTY

Medical/Surgical

DIALOGUE CONTINUES ABOUT TEMPORARY PERMITS

At the September 17, 1998 meeting, the Board voted to withdraw the proposed amendments to Rule 217.3 regarding Temporary Permits and Rule 217.12 concerning Designations for Registered Nurses/Titles Deemed Misleading. The amendment would have discontinued the issuance of temporary permits for new graduates of pre-licensure professional education programs. The proposed rule was published in the Texas Register on July 3. During the 30-day comment period, the board received 17 comments; four were in favor of the permit deletion, 11 were opposed, and two had generic comments neither for nor against. Several of the organizations that wrote comments, such as the Texas Nurses Association, the Texas Hospital Association and the Texas Organization of Nurse Executives offered new language and volunteered to work with board staff to assist in drafting new language.

Because of the nature of comments received, the board followed their usual procedure which is to either withdraw the proposed rules or hold a public hearing. The board voted to withdraw the rules and instructed staff to seek input from the organizations who sent comments in order to assist in reaching a workable solution to the temporary permit issue. The board continues to be concerned about the issue of public safety and the increasing number of new graduates who fail to surrender their permits and continue to practice after receiving notice that they failed the NCLEX-RN® examination, thus deceiving both their employers and the public.

Re-Education Guidelines For Advanced Practice Nurses

As of January 1, 1996, graduates of advanced practice education programs are required to pass the national certification examination within three attempts in the first two years following graduation in order to practice in the advanced practice role in Texas. Some graduate advanced practice nurses have not been able to meet this requirement.

At the July 16, 1998 meeting, the Board approved a rule amendment that sets forth the requirements and process for reapplication for authorization to practice as an advanced practice nurse. The new §221.7(3) states: "A candidate who fails to pass the examination after three attempts or fails to pass the exam within two years following graduation may reapply for authorization to practice as an advanced practice nurse after successfully completing an accredited advanced practice program of study that meets the requirements as outlined in guidelines prepared by the board and §221.3 of this title." (Effective October 1, 1998)

The **Guidelines for Providing an Advanced Practice Program of Study to Re-educate APN Candidates Who Do Not Meet Certification Requirements** state that the program of study must be at least one academic year in length, may include a preceptorship, and, for clinical nurse specialist and nurse practitioner preparation, must include the curricular requirements published by the Texas Higher Education Coordinating Board in collaboration with the Board of Nurse Examiners that became effective January 1, 1997. A fully accredited advanced practice educational program may agree to provide individuals the option of completing an advanced practice program of study.

Upon completion of the requirements stipulated in these **Guidelines**, the individual may submit an **Application for Authorization To Practice as an Advanced Practice Nurse**. Questions regarding this issue may be addressed to the BNE at 512-305-6843 or 512-305-6845.

NOTICE OF DISCIPLINARY ACTION**IMPOSTOR WARNING**

If you have any knowledge or information regarding the employment practices of the following individuals, please contact the Board's Investigation Department immediately, at (512) 305-6838.

YOLANDA VASQUEZ REYES

Social Security Number: 450-15-0479

Yolanda Vasquez Reyes is not licensed to practice professional nursing in the State of Texas. She is licensed as an LVN and her LVN license is currently in delinquent status. Yolanda Vasquez Reyes secured a position as a Legal Assistant/RN with a law firm in the Dallas area. She then applied and was hired as a risk management coordinator in a hospital in the Dallas area. The position as risk management coordinator required current RN licensure. Ms. Reyes used another RN's license number by altering a copy of a license which she obtained by false pretense. Ms. Reyes was terminated from her employment at the hospital on September 30, 1998. Ms. Reyes had also applied for a position with a health care agency who referred the case to the Board due to the questionable copy of the license which she submitted with her application. The Board is pursuing legal action by assisting the hospital police department in preparing a case which will be referred to the Dallas County District Attorney's Office.

**IDALIA HERNANDEZ a.k.a.: Idalia Caranza & Idalia Munoz**

Ms. Hernandez secured employment as an RN Supervisor with a home health agency in Edinburg, Texas on September 20, 1997. The agency contacted the Board to verify licensure and they were informed that Ms. Hernandez did not hold a license to practice professional nursing in the State of Texas. Ms. Hernandez was terminated from employment effective January 30, 1998. The Board is pursuing legal action through the Hidalgo County District Attorney's Office.

MELINDA R. SELF

Ms. Self transferred from Alabama on January 1, 1997, to a position as an agency administrator for a home health agency in Richardson, Texas. Ms. Self indicated to her employer that she was a licensed registered nurse in Alabama and was in the process of procuring a license by endorsement in the State of Texas. The home health agency requested an update of the status of her Texas application to which Ms. Self reported it was in process. Ms. Self failed to produce her Alabama license so the home health agency contacted the Alabama Board of Nursing and learned that Ms. Self's license was expired. Consequently, they contacted the Board of Nurse Examiners and learned that the endorsement process had never been initiated. During her employment, Ms. Self had signed R.N. after her name and held herself out as a registered nurse. Ms. Self was terminated from employment on May 21, 1997 for falsifying and altering company documents.

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IMPOSTOR

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VALERIE FOGORES-STEPHENS

Valerie Fogores-Stephens secured employment as the Director of Case Management with a hospital in the Dallas area on June 23, 1997. During her interview, she informed the Director of Nursing and the administrator that she was a masters prepared nurse. Although not licensed to practice professional nursing in the State of Texas, Ms. Fogores-Stephens does have a Bachelor of Science in Nursing and a Masters in Social Work. Ms. Fogores-Stephens performed nursing assessments, administered medications, started IV's, signed off on physician's orders and held herself out as a registered nurse. In January 1998, the hospital was purchased by another health system in Dallas. During the transition, employee applications and resumes were reviewed and Ms. Fogores-Stephens was asked to produce her nursing license. After repeated requests by personnel and Ms. Fogores-Stephens' non-compliance, they contacted the Board of Nurse Examiners and learned that she was not a registered nurse. Legal action is being pursued through local enforcement authorities.

DISCIPLINARY ACTION

The following registered nurses had disciplinary action taken against their licenses. If you would like to receive additional information regarding the disciplinary action which has been imposed, please send your request to the Board of Nurse Examiners, Department of Investigations, P.O. Box 430, Austin, Texas, 78767-0430.

<u>NAME</u>	<u>LICENSE #</u>	<u>DISCIPLINE</u>	<u>DATE OF ACTION</u>
Asis, Honey Ethel	567231	Reprimand with Stipulations	September 3, 1998
Atyathoabe, Ashinglekae	639865	Warning with Stipulations	August 11, 1998
Austin, Theresa P.	238436	Reprimand with Stipulations	August 11, 1998
Banks, Risha C.	616266	Reprimand with Stipulations	July 16, 1998
Bingham, Judy Laverne	571084	Reprimand with Stipulations	August 11, 1998
Cage, Henrietta	248989	Reprimand with Remedial Education	August 11, 1998
Datuin, Marilou Camacho	624420	Reprimand with Stipulations	September 17, 1998
Campbell, Ronda Kay	614620	Reprimand with Stipulations	August 11, 1998
Craig, Stephanie Lynn	616165	Warning with Stipulations	July 16, 1998
Culajara, Leonida C.	613534	Warning with Stipulations	August 11, 1998
Dejohnette, Aladrian A.	527237	Reprimand with Stipulations	July 16, 1998
Edwards, Patricia Louise	571710	Warning with Stipulations	August 11, 1998
Golden, Elizabeth Leah	563961	Remedial Education	July 16, 1998
Green, Patrice Flannel	257935	Reprimand with Stipulations	August 11, 1998
Hascall, Barbara Ann	599130	Reprimand with Stipulations	September 17, 1998
Haydel, Glenda R.	630700	Reprimand with Stipulations	September 17, 1998
Henderson, Sherry Larann	230579	Reprimand with Stipulations	September 17, 1998
Hernandez, Mercy	611675	Warning with Stipulations	September 17, 1998
Hill, Melanie Jane	634854	Reprimand with Stipulations	September 17, 1998
Ingram, Kimberly A.	619614	Reprimand with Stipulations	July 16, 1998
Johnson, Alma J. Howard	415977	Warning with Remedial Education	August 11, 1998

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DISCIPLINARY ACTION

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<u>NAME</u>	<u>LICENSE #</u>	<u>DISCIPLINE</u>	<u>DATE OF ACTION</u>
Jones, Gloria D.	534100	Reprimand with Stipulations	September 17, 1998
Leeth, Yvonne	638021	Reprimand with Stipulations	August 11, 1998
Lett, Dianne L.	220649	Warning with Stipulations	July 16, 1998
Logan, Sherri Yvonne	581740	Warning with Stipulations	August 11, 1998
Mathews, Weldon Wayne	244328	Limited Practice with Stipulations	August 11, 1998
Miffitt, Katherine F.	599129	Limited Practice with Stipulations	August 11, 1998
Monroe, Sandra Ann	572934	Warning with Stipulations	September 17, 1998
Mulkey, Karan	596104	Reprimand with Stipulations	September 17, 1998
Noble, Janet A.	242267	Reprimand with Stipulations	July 16, 1998
Okoro, Rosita C.	610672	Warning with Stipulations	September 17, 1998
Pettid-McConic, Cathie B.	616992	Warning with Stipulations	August 11, 1998
Pruneda, Mary C.	541282	Reprimand with Stipulations	September 17, 1998
Ruebsamen, Linda Bartlett	623176	Reprimand with Stipulations	September 17, 1998
Scallan, Gerald David	589905	Suspend/Probate	August 11, 1998
Stewart, William T.	253260	Reprimand with Stipulations	July 16, 1998
Stutte, Patsy Lou	464914	Suspend/Probate	September 17, 1998
Sykes, Wanda L.	257298	Warning with Stipulations	July 16, 1998
Taylor, Sonya	629765	Reprimand with Stipulations	September 17, 1998
Vaughn, Barbara R.	245385	Warning with Remedial Education	September 17, 1998
Watkins, Jan	578610	Warning with Stipulations	September 17, 1998
Willis, Catherine Bourn	645411	Warning with Stipulations	September 17, 1998
Young, Connie Lynn	246108	Warning with Stipulations	September 17, 1998

The following individuals have voluntarily surrendered their license to practice professional nursing in the State of Texas.

<u>NAME</u>	<u>LICENSE #</u>	<u>DATE OF SURRENDER</u>
Archer, Barbara Ann	591005	September 11, 1998
Bellamy, Carl J.	245318	August 6, 1998
Bellett, Dennis Martin	558335	July 3, 1998
Childress, Betty Jeanne	588682	August 19, 1998
Coelho, Wendy Marie	558490	August 10, 1998
Danko, Adrienne Elise	522553	August 4, 1998
Duncan, Josephine K. L.	418765	July 14, 1998
Fogle, Carol A. Shreve	229439	August 10, 1998
Fitzpatrick, Kenneth Leroy	240491	June 10, 1998
Frost, Jocelyn Elaine	582424	August 28, 1998
Garrison, Angela Marie	600955	June 26, 1998
Gossage, Rosemary E.	252016	June 25, 1998
Haggerty, Thomas Micah	624340	August 11, 1998

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DISCIPLINARY ACTION

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<u>NAME</u>	<u>LICENSE #</u>	<u>DATE OF SURRENDER</u>
Jacobs, Mary Frances	432742	August 6, 1998
Jewell, Billy Denver	227295	July 17, 1998
Kelley, Susan Annette	547705	September 3, 1998
Lebourgeois, Eugene C.	601409	June 8, 1998
Mangum, Patricia A.	619714	June 29, 1998
Marshall, Doreen Bass	503250	June 10, 1998
Nidever, Calvin Dawayne	236166	August 12, 1998
Rosier, Thomas Nelson	635530	August 25, 1998
Russell, Jon Stewart	602946	June 23, 1998
Rutledge, Janet Kay Guzek	519395	August 19, 1998
Semmes, Linda Sue	567510	August 28, 1998
Smith, Janet Laurie	445620	September 11, 1998
Stillwell, Rebecca Ann	573899	September 11, 1998
Tull, M. Virginia T.	214852	September 15, 1998
Ward, Peggy McElhearn	534087	August 12, 1998
Wingate, Mary A.	501451	June 22, 1998
Wright, Jason Emil	559600	September 11, 1998

As of September 23, 1998, four (4) registered nurses have paid a fine for failure to comply with Board Continuing Education requirements.

CORRECTION:

In the July 1998 issue of the RN Update, the names of the following registered nurses were erroneously listed as having voluntarily surrendered their license to practice professional nursing in the State of Texas.

Carol J. Strait Holley	License number 227971
M. Susan Boor	License number 558376
Joan Gale Smith	License number 549381

The agency regrets this error and any inconvenience it may have caused.

Insufficient Funds

As of October 1, 1998, the following nurses appear on the records of the Board of Nurse Examiners as debits for failure to respond to notices of returned checks. Should any of these nurses be in your employ or seek employment with your agency/institution, please contact the Board's office. If any of these nurses are practicing in Texas as a registered nurse, they may be in violation of the Nursing Practice Act and may be subject to disciplinary action by the Board.

<u>NAME</u>	<u>LICENSE #</u>	<u>NAME</u>	<u>LICENSE #</u>
Allen, Julie Ann	623827	Howell, Sharon	459387
Asble, Alex Walter	564983	James, Karen Louise	577702
Bargas, Virginia	257121	Jenkins, Victor I	517158
Barr, Lori Anne	537652	Kirk, Sandra Andrews	521416
Buol, Kolleen Kay	516233	Kishbaugh, Shari Elizabeth	575583
Conti, Angela Rose	552231	Kuntz, Eileen Marie	514331
Cotterell, Jennifer Sandra	516426	Kurylo, Kim Diane	580995
De John, Ida C Caperna	424176	Masters, Mary Jane	550218
Dennis, Patricia Ann	503975	Milam, Vicki Jeannette	639563
Dever, Lorraine Marie	579468	Mitchell, Sandra	565160
Dillon, Patricia	560309	Nims, Teresa Masadie	565233
Falkner, Barbara Marie	587013	Olivier, Marie Claudia	514361
Farra, Diane Rae	560781	Pangilinan, Julie	445792
Felkins, Bettye Lisa	557452	Payne, Traci Lee	569734
Filler, Marcia Ann	553220	Rae, Lisbeth Sue	538984
Fryer, Renee Marie	578735	Rosko, Lisa Marie	538707
Glisson, James M	239549	Sanderson, Brenda Mary	538111
Gunnels, Lorrie Ann V	623930	Severtson, Marianne Maples	416386
Guthrie, Kelly R	547982	Sloane, Gail Theresa	550406
Hatter, Deanne Marie	568968	Vasquez, Emerald J D	207588
Hess, Cathy Christine	628267	Wilson, Vicki L	220897
Howard, Dorothy	613705	Yoho, Amy Joyce	599381

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