

**VIRGINIA BOARD OF NURSING
MINUTES
March 24, 2015**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on March 24, 2015 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President

BOARD MEMBERS PRESENT:

Guia Caliwagan, RN, MAN
Joana Garcia, Citizen Member
Marie Gerardo, MS, RN, ANP-BC
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President
Louise Hershkowitz, CRNA, MSHA
Jeanne Holmes, Citizen Member; Secretary
Jane R. Ingalls, RN, PhD
Evelyn Lindsay, LPN
Kelly McDonough, DNP, RN
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Jennifer Phelps, LPN, QMHPA
William Traynham, LPN, CSAC; Vice President

STAFF PRESENT:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Gloria D. Mitchell-Lively, RN, BSN, MBA; Deputy Executive Director
Jodi P. Power, RN, JD; Deputy Executive Director
Paula B. Saxby, RN, PhD; Deputy Executive Director (joined later)
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Linda Kleiner, RN; Discipline Case Manager
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel
David Brown, Director; Department of Health Professions
Elaine Yeatts, Policy Analyst; Department of Health Professions

IN THE AUDIENCE:

Lindsay Walton, McCauley and Burtch
Janet Wall, Virginia Nurses Association

ESTABLISHMENT OF A QUORUM:

With 13 members present, a quorum was established.

ANNOUNCEMENTS:

- Allison Gregory, RN, FNP; former Board members has been hired as a P-14 agency subordinate effective March 9, 2015

- Nurse Licensure Compact Director, Jim Puente and staff plan to attend the May 2015 Board meeting

UPCOMING MEETINGS:

- The Committee of the Joint Boards of Nursing and Medicine will conduct a business meeting on April 8, 2015 followed by disciplinary proceedings

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed the Health Practitioners Monitoring Program report from the consent agenda. Ms. Holmes moved to accept the consent agenda which included the following. The motion was seconded and carried unanimously.

Minutes:

January 26, 2015	Panel – Dr. Hahn
January 27, 2015	Quorum – Dr. Ingalls
January 28, 2015	Quorum – Dr. Ingalls
January 28, 2015	Panel – Dr. Hahn
January 28, 2015	Panel – Dr. Ingalls
January 29, 2015	Panel – Dr. Ingalls
March 10, 2015	Telephone Conference Call – Dr. Hahn

Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics
Agency Subordinate Tracking Log

REPORTS:

Executive Director Report:

In addition to the information on the written report submitted, Ms. Douglas provided information on the following:

- Draft guidance document regarding procedural sedation – a draft document is being reviewed by the Committee and will be sent for public comment when the draft document is completed. It is anticipated to present the draft guidance document to replace Guidance Document 90-5 to the Board at the May 2015 meeting.
- Criminal background check legislation is effective January 1, 2016 that will be required for RN and LPN licensure by examination, endorsement and reinstatement. An outside vendor, yet to be identified, will collect digital fingerprints from applicants and send electronically to the Virginia State Police for processing. Department of Health Professions procurement staff are working on a request for proposal for the vendor. Board of Nursing staff designated for criminal background check processing will download a report daily from Virginia State Police and will receive conviction records by mail from Virginia State Police. It is anticipated that the Board of Nursing will experience a 10% increase in applications with criminal conviction information that currently do not self disclose criminal conviction information. The cost of the background check will be the responsibility of the applicant. The cost is anticipated to be approximately \$50.

- A new Deputy Executive Director position has been approved to oversee the nursing licensure process including the criminal background check unit for the Board of Nursing.
- Board of Nursing education staff are exploring the possibility of using videoconferencing for portions of survey visits of education programs.
- Ms. Douglas will share information with Board members regarding process/procedural questions submitted by Board members so that everyone can benefit from frequently asked questions. Identifying information will be removed before sharing with all Board members.

National Council of State Boards of Nursing (NCSBN) Midyear Meeting:

Dr. Hahn provided an oral report on events she attended at the Midyear meeting that included the session for Board Presidents and Executive Officers on Leadership Partnership. Ms. Douglas provided information on the NCSBN Government Affairs office in Washington DC; a presentation from a member of the Kentucky Legislature on the importance of access to care, mobility of nurses and the Nurse Licensure Compact. Ms. Douglas also reported on a presentation from CVS Minute Clinic regarding advanced practice and the changing practice environment regarding telehealth. CVS clinics in some states are usually licensed practical nurses to assist with a telehealth physician or nurse practitioner encounter. Ms. Douglas moderated a panel presentation regarding boards of nursing experiences implementing the Nurse Licensure Compact. Ms. Power also attended the Midyear meeting and reported that 47 states/jurisdictions and 5 Canadian provinces were represented at the meeting. Ms. Power provided information regarding Canada’s use of the NCLEX.

Nurse Licensure Compact Report – Consideration of New NLC draft language:

Ms. Douglas reported on the Nurse Licensure Compact Administrators meeting she attended prior to the NCSBN Midyear meeting. 25 states are participating in the NLC, with several states exploring introducing legislation to join the NLC. The only state in the NLC not pursuing criminal background check legislation is Colorado. New language is being drafted in an effort to address concerns of states that have not wanted to join the NLC and to include changes in the practice environment such as telehealth. Ms. Douglas reviewed the draft model NLC language which will be presented for consideration at the special called NCSBN delegate assembly on May 4, 2015. Mr. Monson moved to support adopting the draft model language. The motion was seconded and carried unanimously.

RECESS: The Board recessed at 10:55 A.M.

RECONVENTION: The Board reconvened at 11:10 A.M.

OPEN FORUM: There was no one present that wished address the Board during the open forum.

REPORTS: **Advanced Practice Registered Nurse (APRN) Compact:**
Ms. Douglas provided the Board with information regarding the APRN. No states have implemented at this time. APRN compact could apply to states that

are not members of the Nurse Licensure Compact (for RN's and LPN's). The Virginia laws governing the practice of nurse practitioners would require change in order for Virginia to join the APRN compact. Ms. Hershkowitz moved that the Board of Nursing recommend the delegates vote in support of the APRN at the Special Delegate Assembly on May 4, 2015. The motion was seconded and carried unanimously.

DIALOGUE WITH AGENCY DIRECTOR:

Dr. Brown provided the Board with information on the following topics:

- Very busy legislative session and thanked Ms. Douglas and Ms. Yeatts for their assistance. Thirteen DHP bills moved forward and DHP was assigned many more.
- Training for Board members is schedule for September 2015 and will be focused on increasing knowledge related to the discipline process.
- Citizen Advocacy Center staff have conducted the first phase of the Health Practitioners Monitoring Program audit. The second phase will determine how well the program functioning.
- Governor's Task force on prescription drug and heroin abuse is ongoing. Prescribing practices need to be appropriate to help solve the abuse problem. In 2013, more people in Virginia died of opiate overdose than in motor vehicle accidents.
- Board members were encouraged to make an appointment with Dr. Brown to discuss any concerns or suggestions they may have.

Ms. Hershkowitz expressed her appreciation for the upcoming Board training.

REPORTS:

Finance Report:

Ms. Douglas reviewed the written report provided to the Board, there were no questions or additional information regarding the report.

Board of Health Professions Report:

Ms. Minton reported the Board of Health Professions meeting was cancelled due to inclement weather.

Health Practitioners Monitoring Program:

A report was not available for consideration.

LEGISTION/REGULATION:

Status of Regulatory Action:

Ms. Yeatts reviewed the regulatory actions for the Board of Nursing as of March 9, 2015, noting the regulations regarding training in medication administration via gastrostomy tube is effective February 13, 2015; and provisional licensure as a registered nurse is effective April 8, 2015.

2015 General Assembly Legislation:

Ms. Yeatts reported on legislative items affecting the Board of Nursing from the 2015 General Assembly session that included the following:

- SB 901 – Restricted volunteer license for nurses and nurse practitioners who practice in public health or community free clinics that provide services to underserved populations.

- SB 944 – Requires home health agencies and hospice agencies to report certain disciplinary actions against and certain disorders of health professionals to the Office of Licensure and Certification at the Department of Health. The Office of Licensure and Certification will then report the information to Department of Health Professions.
- SB 1018 - Establishes state and federal criminal history background check requirements for applicants for licensure as practical nurse or registered nurse effective January 1, 2016.
- HB 2063 – Amends the definition of telemedicine services to encompass the use of electronic technology or media.

OTHER MATTERS:

Board of Nursing Appeals Update:

Ms. Mitchell provided information on the pending Board of Nursing appeals.

Informal Conference Committee Schedule:

Ms. Krohn encouraged committee members to provide dates for informal conferences for the rest of the year as soon as possible. Ms. Douglas added that Board members should consult with staff prior to making changes in the schedule to ensure appropriate coverage.

Appointment of Committee Regarding Criminal Background Checks:

Dr. Hahn asked for volunteers to serve with her on a new Board of Nursing Committee to review and make recommendations regarding the non-routine application process. As a result of implementation of criminal background checks January 1, 2016, an increase in identified convictions is anticipated. The Board has 4 years of data on self-disclosed convictions (5.5% of all applications) that may assist in developing further guidance to staff. Dr. Ingalls, Mr. Monson and Ms. Holmes volunteered to serve on the committee. Mr. Traynham can be used as an alternate if needed.

Scheduling of Board Development Day:

Ms. Douglas asked Board members if they wish to schedule a Board member development day in addition to the Department of Health Professions training that is scheduled for September 2015. Ms. Holmes suggested revisiting if needed after the DHP training day. Board members were in agreement with this suggestion.

Alternative Methods of Delivery of Board Business Related Materials:

Ms. Douglas asked Board members if they would like to receive business meeting materials electronically, hard copy or a combination of both. After discussion, the Board decided that business meeting materials will be sent to Board members electronically and by mail using the existing mailing schedule for May 2015. A discussion regarding the possibility of receiving disciplinary cases electronically took place, Dr. Brown stated this is being piloted by a smaller board, he will provide updates at a later meeting.

RECESS:

The Board recessed at 12:17 P.M.

RECONVENTION:

The Board reconvened at 1:07 P.M.

EDUCATION:

Education Special Conference Committee Minutes:

Dr. Ingalls reviewed the minutes of March 11, 2015. Ms. Hershkowitz moved to accept the minutes as corrected and the recommendations of the Education Special Conference Committee. The motion was seconded and carried unanimously.

http://www.dhp.virginia.gov/nursing/minutes/2015/IFC_final_03172015.doc

Education Staff Report:

Dr. Saxby and Ms. Ridout reported on the following items:

- Dr. Saxby will attend the nurse aide program provider training on April 13 at Tidewater Community College; April 15 at Virginia Western Community College; and April 16 at Germanna Community College.
- Board members interested in serving on the Education Special Conference Committee for July, September and November 2015 should notify Dr. Saxby or Ms. Ridout as soon as possible.
- Dr. Saxby plans to attend the NCSBN Distance Education Committee Virtual Conference on April 28, 2015. Dr. Saxby will be part of a panel representing the regulatory side of distance education programs. Information regarding attending the virtual conference will be sent to Board members by Dr. Saxby.
- Member Board NCLEX Review has been scheduled for April 22, 2015 in Richmond. Dr. Saxby stated Board members interested in participating should let her know as soon as possible.

NCLEX Pass Rates 2009 – 2014:

Ms. Ridout reviewed the NCLEX pass rate information for 2009 – 2014. The report compared the Virginia pass rate to the national pass rate for RN and LPN programs.

NCLEX RN Test Plan Review:

Dr. Saxby presented an overview of the written information provided to Board members. She indicated the Virginia Board of Nursing provided feedback that there be no changes in cut score to assist with stabilization of NCLEX scores. Dr. Saxby added education staff regularly send electronic updates regarding important education and NCLEX testing information to all nursing education programs as well as providing updates by Ms. Ridout at the quarterly education program meetings.

CONSIDERATION OF RECOMMENDATIONS REGARDING APPLICANTS AND CONSENT ORDERS:

CLOSED MEETING:

Dr. Ingalls moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:59 P.M. for the purpose of deliberation to consider a NCLEX-PN accommodation request and consent orders. Additionally, Dr. Ingalls moved that Ms. Douglas, Ms. Mitchell-Lively, Ms. Krohn, Ms. Power, Dr. Saxby, Ms. Ridout, Ms. Kleiner, Ms. Tiller, Ms. Davis and Ms. Mitchell attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 2:34 P.M.

Dr. Ingalls moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

Request for NCLEX-PN Accommodation:

The Board received a request from Donna Morgan for an accommodation for extra time and a private room to take the NCLEX-PN. Mr. Traynham moved to deny the request stating the normal time is adequate based on the impairment. The motion was seconded and carried. Ms. Gerardo, Ms. Minton, Dr. Ingalls, Mr. Monson, Ms. Phelps, Mr. Traynham and Dr. McDonough were in favor of the motion. Ms. Hershkowitz, Ms. Caliwagan, Dr. Hahn, Ms. Holmes, Ms. Garcia and Ms. Lindsay opposed the motion.

Consideration of Consent Orders:

Linda S. Toombs, LPN 0002-035246

Dr. Ingalls moved to accept the consent order to indefinitely suspend the license of Linda Toombs to practice as a practical nurse. The motion was seconded and carried unanimously.

Audra Rothwell Franklin, LPN 0002-089542

Dr. Ingalls moved to accept the consent order to indefinitely suspend the license of Audra Franklin to practice as a practical nurse, but stay the suspension contingent upon proof of Ms. Franklin's entry into and compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Eric Wyatt, RN 0001-220170

Dr. Ingalls moved to accept the consent order indefinitely suspend the license of Eric Wyatt to practice as a registered nurse and to issue a reprimand. The motion was seconded and carried unanimously.

Lynette Pries, LPN 0002-089228

Dr. Ingalls moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the license of Lynette Pries to practice as a practical nurse. The motion was seconded and carried unanimously.

Sheila Kent, LPN 0002-088249

Dr. Ingalls moved to accept the consent order to indefinitely suspend the license of Sheila Kent to practice as a practical nurse. The motion was seconded and carried unanimously.

Amber Harris, LPN 0002-066126

Dr. Ingalls moved to accept the consent order deny the petition for modification of the order of the Board entered April 9, 2014, and to terminate the probation of Amber Harris. Further, the Board moved to indefinitely

suspend the license of Amber Harris to practice as a practical nurse, but stay the suspension contingent upon proof of Ms. Harris' entry into and compliance with the Health Practitioners Monitoring Program and to reprimand Amber Harris. The motion was seconded and carried unanimously.

Lisa Perkins, RN 0001-107297

Dr. Ingalls moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the license of Lisa Perkins to practice as a registered nurse. The motion was seconded and carried unanimously.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 2:35 P.M.

Joyce A. Hahn, PhD, RN, NEA-BC, FNAP
Vice President

Note - Copies of reports referenced can be obtained by contacting the Board of Nursing office.