

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
September 17, 2015**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:00 A.M. on September 17, 2015 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS PRESENT:
William Traynham, LPN, CSAC; Vice President
Marie Gerardo, MS, RN, ANP-BC
Regina Gilliam, LPN
Louise Hershkowitz, CRNA, MSHA
Kelly S. McDonough, DNP, RN
Trula Minton, MS, RN (joined later)

BOARD MEMBER ABSENT:
Jeanne Holmes, Citizen Member

STAFF PRESENT: Jay P. Douglas, RN, MSM, CSAC, FRE; Executive Director
Gloria D. Mitchell-Lively, RN, MSN, MBA; Deputy Executive Director
Amy Davis, Executive Assistant

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General, Board Counsel

ESTABLISHMENT OF A QUORUM:
With five members of the Board present, a panel was established.

FORMAL HEARINGS: **Joi Kelly, RN 0001-223227**
Ms. Kelly appeared.

Wayne Halbleib, Senior Assistant Attorney General and Cynthia Gaines, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, recorded the proceedings.

Sherry Foster, Senior Investigator, Department of Health Professions and Tonya James, Compliance Case Manager, Board of Nursing were present and testified.

RECESS: The Board recessed at 10:28 A.M.

RECONVENTION: The Board reconvened at 10:34 A.M.

CLOSED MEETING: Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:58 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Kelly. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Ms. Mitchell-Lively,

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 11:24 A.M.

Ms. Hershkowitz 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.

Ms. Gerardo moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Halbleib and Ms. Gaines and amended by the Board. The motion was seconded and carried unanimously.

ACTION: Ms. Hershkowitz moved that the Board of Nursing issue a reprimand and revoke the license of Joi Kelly to practice as a professional nurse. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 11:28 A.M.

RECONVENTION: The Board reconvened at 11:34 A.M.

Ms. Minton joined the meeting.

FORMAL HEARINGS: **Ashley Hensley, RN Reinstatement Applicant**
Ms. Hensley appeared.

Cynthia Gaines, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, recorded the proceedings.

Patricia Sheehan, Senior Investigator, Department of Health Professions was present and testified.

CLOSED MEETING: Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 12:05 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Hensley. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Ms. Mitchell-Lively, 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 11:14 A.M.

Dr. McDonough 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.

Ms. Gerardo moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Gaines and amended by the Board. The motion was seconded and carried unanimously.

ACTION:

Ms. Hershkowitz moved that the Board of Nursing deny reinstating the license of Ashley Hensley, continue the license on indefinite suspension, but stay the suspension contingent upon her continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS:

Lora C. Schwarz, RN 0001-111738

Ms. Schwarz appeared.

Emily Tatum, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, recorded the proceedings.

Lane Raker, Senior Investigator, Department of Health Professions and Ed Gonzalez, former Senior Licensing Specialist, Department of Behavioral Health and Disability Services were present and testified.

CLOSED MEETING:

Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 2:00 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Schwarz. Additionally, Ms. Hershkowitz moved that Ms. Ms. Douglas, 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 2:15 P.M.

Dr. McDonough 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.

Ms. Gerardo moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Tatum and amended by the Board. The motion was seconded and carried unanimously.

ACTION:

Ms. Hershkowitz moved that the Board of Nursing reprimand Lora Schwarz require Ms. Schwarz to complete three National Council of State Boards of Nursing online courses "Professional Accountability and Legal Liability for

Nurses” “Ethics of Nursing Practice” and “Virginia Nurse Practice Act” within 90 days of entry of the order. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 2:18 P.M.

RECONVENTION: The Board reconvened at 2:51 P.M.

FORMAL HEARINGS: **Kellon Mignon Compton, RN 0001-232646**
Ms. Compton appeared, represented by attorney, Margaret Hardy.

Emily Tatum, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, recorded the proceedings.

Patricia Harte-Byers, Senior Investigator, Department of Health Professions; Mariah Tyrell Morris, LPN, former employee of Indian River Intermediate Care Facility; Diane Cope, Behavioral Specialist, Indian River Intermediate Care Facility were present and testified.

RECESS: The Board recessed at 4:23 P.M.

RECONVENE: The Board reconvened at 4:46 P.M.

Dr. McDonough left the meeting due to an emergency.

CLOSED MEETING: Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 4:53 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Compton. Additionally, Ms. Hershkowitz moved that Ms. Douglas, 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 5:01 P.M.

Ms. Gerardo 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.

ACTION: Ms. Hershkowitz moved that the Board of Nursing dismiss the case in the matter of Kellon Compton due to a lack of clear and convincing evidence. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Dr. McDonough re-joined the meeting.

FORMAL HEARINGS: **Roger D. Walker, RN 0001-177510**
Mr. Walker appeared, accompanied by Gerald Notari and Charles Dougherty, Jr.

Cynthia Gaines, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, recorded the proceedings.

Kimberly Lynch, Senior Investigator, Department of Health Professions; Dawn France, Case Manager, Health Practitioners Monitoring Program; Gerald Notari, Mr. Walker's sponsor; and Charles Dougherty, friend were present and testified.

CLOSED MEETING: Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 5:48 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Walker. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Ms. Mitchell-Lively, 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 6:01 P.M.

Ms. Gerardo 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.

Ms. Hershkowitz moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Gaines and amended by the Board. The motion was seconded and carried unanimously.

ACTION: Ms. Hershkowitz moved that the Board of Nursing reprimand Roger Walker and indefinitely suspend his license to practice as a professional nurse, but stay the suspension contingent upon proof of entry into the Health Practitioners Monitoring Program and remaining in compliance thereafter. The motion was seconded and carried. Ms. Minton, Ms. Gerardo, Ms. Gilliam and Ms. Hershkowitz were in favor of the motion. Mr. Traynham and Dr. McDonough opposed the motion.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 6:04 P.M.

RECONVENED: The Board reconvened at 6:10 P.M.

FORMAL HEARINGS: **Jamie L. Cale, LPN 0002-063502**
Ms. Cale appeared.

Emily Tatum, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, recorded the proceedings.

Kim Martin, Senior Investigator, Department of Health Professions and Dawn France, Case Manager, Health Practitioners Monitoring Program were present and testified.

CLOSED MEETING: Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 6:51 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Cale. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Ms. Mitchell-Lively, 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 7:10 P.M.

Ms. Hershkowitz 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.

Ms. Gerardo moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Tatum and amended by the Board. The motion was seconded and carried unanimously.

ACTION: Ms. Minton moved that the Board of Nursing reprimand Jamie Cale and continue her license to practice as a practical nurse on indefinite suspension for a period of not less than one year. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 7:12 P.M.

Gloria D. Mitchell-Lively, RN, MSM, MBA
Deputy Executive Director