

**VIRGINIA BOARD OF NURSING
MINUTES
July 14, 2015**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:02 A.M. on July 14, 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:

Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President
William Traynham, LPN, CSAC; Vice President
Joana Garcia, Citizen Member
Louise Hershkowitz, CRNA, MSHA
Evelyn Lindsay, LPN
Kelly McDonough, DNP, RN (joined later)
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Jennifer Phelps, LPN, QMHPA

BOARD MEMBERS ABSENT:

Guia Caliwagan, RN, MAN
Marie Gerardo, MS, RN, ANP-BC
Jeanne Holmes, Citizen Member; Secretary
Jane R. Ingalls, RN, PhD

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
Stephanie Willinger, Deputy Executive Director
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel
David E. Brown, DC; Director, Department of Health Professions
Elaine Yeatts, Policy Analyst; Department of Health Professions
Lori Finch, VCU Graduate Student

IN THE AUDIENCE:

Dr. Nina Beaman, President, Legislative Coalition of Virginia Nurses.
Michele Satterlund, Virginia Association of Nurse Anesthetists
Janet Wall, Virginia Nurses Association
Lindsay Walton, Macaulay and Burtch

ESTABLISHMENT OF A QUORUM:

With 8 members present, a quorum was established.

ANNOUNCEMENTS:

- Lia Cullen, VCU School of Nursing Student – Board of Nursing Intern
- Board of Nursing Deputy Executive Director/Licensure – Stephanie Willinger – effective July 10, 2015

UPCOMING MEETINGS:

- NLCA Meeting – August 18, 2015 in Chicago, Illinois – Ms. Douglas plans to attend
- NCSBN Annual Meeting – August 19 – 21, 2015 in Chicago, Illinois – Dr. Hahn, Ms. Minton and Ms. Douglas plan to attend
- DHP Board Member training for current Board Members – September 28, 2015
- DHP Board Member training for new Board Members – October 16, 2015

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed two items from the consent agenda. Ms. Hershkowitz moved to accept the consent agenda which included the following. The motion was seconded and carried unanimously.

Minutes:

May 18, 2015	Panel – Dr. Hahn
May 20, 2015	Panel – Dr. Hahn
May 20, 2015	Panel – Mr. Traynham
May 21, 2015	Panel – Mr. Traynham
June 15, 2015	Panel – Mr. Traynham

Reports:

Health Practitioners Monitoring Program Report
 Agency Subordinate Tracking Log
 Finance Report – Ms. Douglas

Mr. Monson moved to accept the minutes as amended for the following. The motion was seconded and carried unanimously.

May 19, 2015	Quorum – Dr. Hahn
May 20, 2015	Quorum – Dr. Hahn
June 10, 2015	Committee of the Joint Board of Nursing and Medicine – Ms. Hershkowitz

REPORTS:

Committee of the Joint Boards of Nursing and Medicine:

Ms. Hershkowitz reported on the meeting held June 10, 2015 which included discussion regarding Board of Medicine Guidance Document 85-12 related to telehealth. Ms. Douglas provided background information on how the Board of Medicine developed the guidance document, keeping public safety as the key aspect.

The Board of Nursing discussed language contained in the document; including the title to be sure it was clear that it applied to the Board of Nursing and nurse practitioners.

Mr. Monson moved to adopt Guidance Document 85-12 Telemedicine as a Joint Board of Nursing and Medicine guidance document. The motion was seconded and carried. Dr. Hahn, Ms. Garcia, Ms. Hershkowitz, Ms. Lindsay, Ms. Minton, Mr. Monson and Ms. Phelps were in favor of the motion. Mr. Traynham opposed the motion.

Dr. McDonough joined the meeting.

Executive Director Report:

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

- Stephanie Willinger joined the Board of Nursing staff effective July 10, 2015 in the new Deputy Executive Director position. Ms. Willinger will manage the nursing licensure process and the criminal background check process that will be required for licensure in 2016. Ms. Douglas acknowledged Ms. Krohn, who has supervised staff since December 2014 when Charlotte Creed retired. The position held by Ms. Creed will be advertised soon and will report to Ms. Willinger.
- The Request for Proposal (RFP) for the criminal background check vendor is being reviewed and should go out for proposals this week. It is anticipated to have a vendor secured in October 2015. The Board of Nursing Criminal Background Check Committee will plan to meet in September 2015.
- There are a large number of cases at probable cause review status due to older cases coming from Enforcement and staff resource issues.
- The Board voted to move forward with recommending legislative proposal for the new Nurse Licensure Compact, information will be shared with stakeholders.
- DHP has implemented a new licensing system, MLO, effective July 13, 2015. Currently, online application and renewal processes are not functioning.

DIALOGUE WITH AGENCY DIRECTOR:

Dr. Brown provided information on the following topics:

- Governor's Taskforce on Drug Abuse met in June 2015 and is scheduled to meet again in September 2015. Secretary Hazel plans to meet in Wise County in September to involve surrounding states to discuss regional concerns.
- DHP hired the Citizen's Advocacy Center (CAC) to conduct an audit of the Health Practitioners Monitoring Program (HPMP). The report from the CAC has been received and recommendations are being reviewed with HPMP. It is anticipated a report will be available for the Board's review in September or November 2015. The report was overall positive, and included recommendations for improvement such as communication and visibility.

Ad Hoc Committee - RN Role in Procedural Sedation Committee:

Dr. McDonough reported on the meeting held May 19, 2015 and stated a good turnout to provide public comment at the meeting from various groups. Dr. McDonough reported the next step is for the Committee to consider the level of specificity of the comments to be incorporated into the revised draft guidance document and seek additional public comment.

National Council of State Boards of Nursing Discipline Case Management Conference:

Ms. Mitchell-Lively attended the meeting June 1-3, 2015 and expressed her appreciation of being able to attend. Ms. Mitchell-Lively reported on a few topics of interest from the meeting:

- Bullying in the workplace statistics indicate 35% report bullying with the majority being men bullying women. 17% of those reported being bullied left place of employment.
- New drug testing techniques.
- Boards need to be more specific in boundary violations in law/regulations. Provided information from a case in another state of professional boundary/sexual misconduct that the respondent admitted to the actions however the decision of the Board was overturned because the law/regulations were too vague for the licensee to be aware of violation.
- Boards approach with investigating cases from correctional settings, understanding safety is the nurse's primary issue.

RECESS: The Board recessed at 9:59 A.M.

RECONVENTION: The Board reconvened at 10:16 A.M.

PUBLIC COMMENT: Janet Wall, CEO, Virginia Nurses Association shared information regarding the upcoming Fall Conference scheduled for November 20-21, 2015 in Richmond. The focus is Patient & Family Centered Care: An Inter-professional Approach. Ms. Wall encouraged Board members and staff to attend.

POLICY FORUM: **DHP Healthcare Workforce Data Center Reports:**
Dr. Elizabeth Carter, Executive Director of the Department of Health Professions Workforce Data Center provided the 2014 report for Certified Nurse Aides, Registered Nurses, Licensed Practical Nurses and Licensed Nurse Practitioners. Dr. Carter reviewed the information for each profession that included topics to include survey response rates, workforce, demographics, education and current employment information. Ms. Hershkowitz moved to accept the reports as presented. The motion was seconded and carried unanimously.

Dr. Saxby reported on the request from the Education Progression workgroup of the Virginia Action Coalition on the addition of questions to the nursing survey that is conducted during each renewal of a nursing license. The proposed questions to include are:

- Are you currently enrolled in a degree seeking program

- If so, what degree
- When do you anticipate graduating

Ms. Hershkowitz moved to approve adding these questions to the survey. The motion was seconded and carried unanimously. Dr. Carter also presented a request to the Board to include military information such as rank, branch and military occupation. Mr. Traynham moved to approve adding military information to the survey. The motion was seconded and carried unanimously.

LEGISLATION/REGULATION:

Status of Regulatory Action:

Ms. Yeatts reviewed the regulatory actions for the Board of Nursing as of July 13, 2015 noting three fast-track items will be effective July 16, 2015 and the final nurse practitioner and prescriptive authority regulations will be effective July 15, 2015.

Action on Guidance Document 90-36 – Guidelines for Training of Public School Employees in the Administration of Insulin and Glucagon:

Ms. Yeatts reviewed current guidance document 90-36 and the revised version of 90-36. Revision to the Insulin and Glucagon Training Manual was necessitated by the passage of HB134 (2014) which added a requirement for students with diabetes to be allowed to self-carry and self-treat their diabetes. The Department of Education proposed the guidelines for training adopted by the Board of Nursing in 1999 as Guidance Document 90-36 be amended to consolidate the content of the training curriculum. Ms. Hershkowitz moved to adopt the revised guidance document. The motion was seconded and carried unanimously.

Action on Guidance Document 90-11 – Continuing Competency Violations for Nurse Practitioners and 90-56 – Practice Agreements for Nurse Practitioners:

Ms. Yeatts reviewed the information recommended by the Committee of the Joint Boards of Nursing and Medicine on June 10, 2015 and adopted by the Board of Medicine on June 18, 2015. Mr. Monson moved to adopt Guidance Document 90-11 as presented. The motion was seconded and carried unanimously. Ms. Hershkowitz moved to adopt Guidance Document 90-56 as presented. The motion was seconded and carried unanimously.

OTHER MATTERS:

Board of Nursing Appeals Update:

Ms. Mitchell, Board Counsel, reported there was no appeal information to provide.

Summary of Recommendations for the NCSBN 2015 Delegate Assembly:

Ms. Douglas and Dr. Hahn will attend as voting delegates; Ms. Minton will attend as an alternate delegate. Information that will be voted on at the meeting in August was provided to Board members, Ms. Douglas and Dr. Hahn welcomed input from Board members on these topics.

MATY Revision and Request for Expanded Usage of Curriculum:

Ms. Krohn reviewed the information submitted by the Virginia Association of Independent Specialized Education Facilities and Virginia Council for Private

Education to revise the Medication Administration Training for Youth (MATY) curriculum. The revision will allow accredited private schools to use the MATY curriculum. Mr. Monson moved to approve the revised curriculum. The motion was seconded and carried unanimously.

Electronic Receipt of Board Meeting Materials:

Dr. Hahn asked for Board members' opinion on receiving materials for the Board meeting electronically and/or hard copy. After discussion, Board members stated they wish to receive documents electronically and by mail as has been done recently.

Board of Nursing Fall Retreat/Board Development Day:

Dr. Hahn asked for discussion regarding a date for Board member development day. After a review of upcoming DHP Board member training dates, it was decided that Ms. Douglas will send Board members a survey for their availability for the afternoon or evening after the November 17, 2015 Board meeting and possible topics.

EDUCATION:

Education Special Conference Committee Minutes:

Dr. Hahn reviewed the minutes of July 8, 2015. Education programs are reporting the common issues of difficulty with finding pediatric clinical experiences and acute care clinical experiences. Ms. Hershkowitz moved to accept the recommendations of the Education Special Conference Committee. The motion was seconded and carried unanimously.

http://www.dhp.virginia.gov/nursing/minutes/2015/EducationIFC_final_7082015.doc

Consideration of Recommended Decision of the Education Special Conference Committee:

Southwest Virginia Community College Practical Nursing Education Program

Mr. Traynham moved that the Board of Nursing accept the recommended decision of the Education Special Conference Committee to rescind the stay of withdrawal of approval of the program to operate and that the program shall be closed no later than January 31, 2016 when all students shall either have graduated or transferred to an approved program. The motion was seconded and carried unanimously.

Centura College Practical Nursing Education Program, Norfolk

Ms. Hershkowitz moved that the Board of Nursing accept the recommended decision of the Education Special Conference Committee to withdraw the approval to operate the program, stay the withdrawal, the program shall remain on conditional approval contingent upon terms and conditions to include:

- Centura College PN program shall not admit any new students or transfer students for period of one year from date of entry of the order
- Centura College PN program's NCLEX pass rate for calendar year 2015 shall be 80% or above
- Centura College PN program shall satisfactorily comply with their current NCLEX success plan

- Centura College PN program shall comply with the Board’s regulations for maintaining an approved practical nursing program to include clinical experiences across the life span in a variety of settings, specifically, pediatric health care
- Centura College PN program shall provide reports demonstrating compliance with the terms and conditions of this order every six months with the first report due December 1, 2015.

Consideration to Modify Nursing Education Program Orders:

Ms. Power presented background information on two nursing education programs in which the Board withdrew approval of the programs, but stayed the withdrawal contingent upon terms and conditions. Ms. Power explained the orders included “summary rescission” language to indicate any violation of the terms and conditions shall result in a rescission the stay resulting in immediate closure of the program. This language was proven functionally challenging for use in education program orders as not being wise, prudent or fair to students to immediately shut down an education program based on a rescission of the stay until a hearing can be convened to make final determination regarding compliance with the orders and overall program approval status. Ms. Powers stated pursuant to §54.1-2400(13) health regulatory boards have the authority to consider modification of previously issued board orders when such considerations have been requested by either party. Given this authority, Board staff asked Board members to consider modifying two orders to remove the summary rescission language which mandates the Board to immediately withdraw approval and convene a formal hearing and to replace it with language that allows for the Board to hold another administrative proceeding (i.e., informal conference) to consider any violations of terms of the order and program status after a due process proceeding.

CLOSED MEETING:

Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 11:46 A.M. for the purpose to consider modification of Board orders. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Ms. Mitchell-Lively, Ms. Krohn, Ms. Power, Dr. Saxby, Ms. Ridout, Ms. Willinger, Ms. Finch, 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 11:54 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.

Bryant and Stratton College Associate Degree Registered Nursing Education Program

Mr. Monson moved that the Board approve the proposed change to the language in the order entered April 2, 2014. The motion was seconded and carried unanimously.

Breckinridge School of Nursing and Health Sciences at ITT Technical Institute Associate Degree Registered Nursing Education Program

Mr. Monson moved that the Board approve the proposed change to the language in the order entered April 9, 2014. The motion was seconded and carried unanimously.

Dr. Hahn moved that the Board consider recommending a legislative proposal for summary suspension of education programs that would include summary restriction. The motion was seconded and carried unanimously. Ms. Douglas will provide language for Board consideration for General Assembly Session 2017.

Education Staff Report:

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

- Dr. Saxby and Ms. Ridout reviewed the issues with relations between ACEN and NLN. ACEN has been in negotiation with NLN in an effort to achieve compliance with a long-standing federal regulation by the US Department of Education that as an accrediting agency, ACEN must be an independent entity from NLN. The separation has not occurred and the ability to serve as a Title IV gatekeeper and accreditor may be in jeopardy. Dr. Saxby and Ms. Ridout will provide updates as future information is received.
- 2014 NNAAP Technical Report was reviewed by Dr. Saxby. The NNAAP is a nationally administered competency examination program used to determine certification eligibility for certified nurse aides. The report contained pass rates for the written and skills examination. Virginia scored 86% pass rate on the written exam and 71% on the skills exam.
- Dr. Saxby reported a graduate student from Lynchburg College will be working with the Board on how nurse aide education programs can do a better job in teaching students and performing on the NNAAP exam.

RECES: The Board recessed at 12:20 P.M. Ms. Mitchell and Ms. Mitchell-Lively left the meeting.

RECONVENTION: The Board reconvened at 1:30 P.M.

CONSIDERATION OF CONSENT ORDERS:

CLOSED MEETING: Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:32 P.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Ms. Krohn, Ms. Power, Dr. Saxby, Ms. Ridout, Ms. Willinger, Ms. Finch, Ms. Tiller and Ms. Davis 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 1:35 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.

Megan A. Pedersen, RN Multistate Privilege (SC License 17579A)

Ms. Hershkowitz moved to accept the consent order to indefinitely suspend the multistate privilege of Megan Pedersen to practice professional nursing in Virginia, but stay the suspension contingent upon proof of Ms. Pedersen's entry into the Massachusetts Substance Abuse Rehabilitation Program or the Virginia Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Jiali Deng, CMT 0019-012693

Ms. Hershkowitz moved to accept the consent order for the voluntary surrender for indefinite suspension of the massage therapy certification of Jiali Deng. The motion was seconded and carried unanimously.

Dee Waits, RN 0001-223717

Ms. Hershkowitz moved to accept the consent order to indefinitely suspend the professional nursing license of Dee Waits, but stay the suspension contingent upon proof of Ms. Waits' entry into the Health Practitioners Monitoring Program or a similar program in the state of Alabama. The motion was seconded and carried unanimously.

Tabitha Jenkins, LPN 0002-086609

Ms. Hershkowitz moved to accept the consent order to indefinitely suspend the practical nursing license of Tabitha Jenkins, but stay the suspension contingent upon proof of Ms. Jenkins' entry into the Health Practitioners Monitoring Program and continued compliance with the program. The motion was seconded and carried. Ms. Minton abstained from voting.

Mary Eileen Neary, RN 0001-133648

Mr. Monson stated he has knowledge of Ms. Neary but is able to render a fair and impartial decision. There were no objections to Mr. Monson participating in the decision. Ms. Hershkowitz moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Mary Eileen Neary. The motion was seconded and carried unanimously.

Shirley L. Jackson, RMA 0031-002827

Ms. Hershkowitz moved to accept the consent order for the voluntary surrender for indefinite suspension of the right of Shirley Jackson to renew her

registration to practice as a medication aide in Virginia. The motion was seconded and carried unanimously.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 1:36 P.M.

Jeanne E. Holmes, Citizen Member
Secretary

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