

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
MINUTES
December 7, 2016**

TIME AND PLACE: The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 9:30 A.M., December 7, 2016 in Board Room 4, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

MEMBERS PRESENT: Louise Hershkowitz, CRNA, MSHA; Chair
Marie Gerardo, MS, RN, ANP-BC
Rebecca Poston, PhD, RN, CPNP
Wayne Reynolds, DO
Kenneth Walker, MD

MEMBERS ABSENT: Lori D. Conklin, MD

ADVISORY COMMITTEE MEMBERS PRESENT:
Joseph F. Borzelleca, Jr., MD, MPH
Kevin E. Brigle, RN, NP
Mark Coles, RN, BA, MSN, NP-C
Wendy Dotson, CNM, MSN
David A. Ellington, MD
Sarah E. Hobgood, MD
Tom Watters, RN, CRNA

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director; Board of Nursing
Stephanie Willinger, Deputy Executive Director, Board of Nursing
Huong Vu, Executive Assistant; Board of Nursing

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

IN THE AUDIENCE: Lynn Poole, FNP-BC
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Tyler Cox, Medical Society of Virginia (MSV)
Mary Duggan, American Association of Nurse Practitioners (AANP) State Representative
Caroline Perrin, MWC
Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)

DIALOGUE WITH AGENCY DIRECTOR: **Opioid Crisis** – Dr. Brown reported that the State Health Commissioner, Dr. Marrisa Levine, declared the Virginia opioid addiction crisis a public health emergency and issued a standing order that allows all Virginians to obtain the drug Naloxone that is used to treat narcotic overdoses in emergency situations.

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Dr. Brown noted that in 2015, there were 809 fatalities from opioid overdose, up from 515 in 2007. He added that the projected fatal overdose from opioid in 2016 is over 1000.

Dr. Brown said that through Prescription Monitoring Program (PMP), DHP has made it harder for doctor shopping to occur in order to obtain opioids. He added that data from PMP is used to identify outlier prescribers and criteria to be used in disciplinary cases.

Dr. Brown stated that last General Assembly, the law was passed to require Board of Medicine (BOM) to identify licensees with prescriptive authority that should complete two continuing education hours in controlled substance prescribing. He added that BOM has developed a Task Force focuses on assisting practitioners on how to properly treat opioid addiction with buprenorphine products in the context of medication-assisted therapy.

Dr. Brown commented that Board of Medicine is moving forward with regulations on the use of buprenorphine.

Dr. Brown left the meeting.

ESTABLISHMENT OF A QUORUM:

Ms. Hershkowitz called the meeting to order and established a quorum was present. Ms. Hershkowitz welcomed Dr. Ellington acknowledging this was his first meeting.

INTRODUCTIONS:

Committee members, Advisory Committee members and staff members introduced themselves.

REVIEW OF MINUTES:

The minutes of June 8, 2016 and October 12, 2016 were reviewed. Dr. Reynolds moved to accept the minutes as presented. The motion was seconded and carried unanimously.

PUBLIC COMMENT:

There was no one present that wished to address the Board.

OLD BUSINESS:

Consideration of elimination of separate licenses for Nurse Practitioners and Prescriptive Authority (PA):

Ms. Douglas stated that at the last meeting, the Board asked for information obtained related to the question that was raised regarding if a separate prescriptive authority license is needed. Ms. Douglas noted that if a licensee wishes to have the Prescriptive Authority, he/she must first obtain the Registered Nurse (RN) license or holds a multi-state privilege from a compact state. Then applies for a Nurse Practitioner (NP) license and if wishes to execute prescriptive authority, must apply for a third license. Ms. Douglas stated for the past two years, \$126,000 and \$143,000 in revenue was generated by prescriptive authority licensees and noted that Board of Nursing current budget balance is healthy. Ms.

Douglas shared information from National Council of State Board of Nursing indicating the majority of 27 states do have some mechanism for a separate process for obtaining authorization for prescriptive authority, not necessarily a separate license. Ms. Douglas reported that the total numbers of licensed nurse practitioners (LNPs) as of November 29, 2016 is 9,272 of which 6,325 LNPs have prescriptive authority. There are 1,951 Certified Registered Nurse Anesthetists (CRNAs) who do not have prescriptive authority and 996 LNPs without prescriptive authority that are licensed in categories other than CRNA.

The Committee generally discussed the advantages and disadvantages of a separate license. Dr. Reynolds stated that he supports the combined license. He commented that it is an administrative burden and burdensome and confusing for nurse practitioners (NPs) to apply for the third license. Ms. Gerardo expressed agreement with Dr. Reynolds. Dr. Hobgood asked if NPs are trained about prescriptive authority during their education program.

Ms. Douglas noted that if use of a separate license was discontinued, there could still be a mechanism to differentiate through the licensure database and the website those with prescriptive authority. She commented that as NP education has advanced over the years, basic NP education now includes pharmacology.

Dr. Reynolds motioned to move forward with the recommendation to combine NP and PA. The motion was seconded and passed unanimously.

Ms. Douglas said that the next step is for Ms. Mitchell, Board Counsel, to review the Code to identify any statutory barriers. Staff will further assess fiscal and operational factors and seek any necessary DHP approval.

Consideration of BOM rationale for amendment to Guidance Document (GD) 90-56 (Practice Agreements):

Ms. Yeatts reviewed the GD 90-56 which was adopted by the Board of Nursing (BON) in July. She added that it was presented to the Board of Medicine (BOM) for adoption because Licensed Nurse Practitioners (LNPs) are jointly regulated by BON and BOM. She noted that in August the BOM modified the GD to delete inclusion of “authorization to write DNR orders” for practice agreement for an LNP in the category of CNM. She said that it was presented to the BON in September, the BON stayed with its original decision, and asked staff to request the BOM to provide rationale for their action.

Ms. Yeatts noted that the OB/GYNs on the BOM stated that they would not usually write DNR orders since the patient is co-managed by primary physician. She stated that there are two options to consider:

- The appropriateness of DNR for CNM to write; and
- Separating sections in GD 90-56 to differentiate between “should” and “may” activities for inclusion in a practice agreement.

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Ms. Dotson commented that it is not needed or appropriate for a CNM. Dr. Borzelleca and Mr. Coles noted that certain situations in hospitalized patient where the CNM might have the primary relationship with the patients and therefore the ability to write the DNR order would be appropriate.

Ms. Yeatts noted that an omission of something in a GD does not prohibit the activity. Ms. Mitchell added that if something is not referenced in GD, it does not prevent CNM to have it included in a practice agreement.

Dr. Walker moved to delete “authorization to write DNR orders” in the practice agreement for an LNP in the category of CNM. The motion was seconded and passed unanimously.

Dr. Reynolds moved to revise the GD to differentiate between “should” and “may” sections. The motion was seconded and passed unanimously.

Ms. Yeatts said the revision of the GD will be forwarded to the BON and BOM for approval after staff make the changes. All agreed.

RECESS: The Board recessed at 10:34 A.M.

RECONVENTION: The Board reconvened at 10:49 A.M.

NEW BUSINESS: **Nominations for Replacement of Physician and Nurse Practitioner Advisory Committee Members:**

Ms. Douglas reviewed the regulations indicating the Committee of the Joint Boards and the Advisory Committee composition.

A recommendation for the vacant physician position on the Advisory Committee was submitted by Dr. Hobgood for Thokozeni Lipato. In addition, Stuart Mackler had previously indicated his interest in serving on the Advisory Committee once his Board of Medicine term was completed, but has not submitted his CV for review. Dr. Reynolds and Dr. Walker spoke in support of Dr. Mackler. Dr. Hobgood spoke in support of Dr. Lipato.

Ms. Hershkowitz asked for the hand vote in favor of Dr. Lipato. There was one vote of yes out of six.

Ms. Hershkowitz asked for the hand vote in favor of Dr. Mackler. There were four votes of yes out of six.

Recommendation for a nurse practitioner to replace Dr. Watters on Advisory Committee was submitted by the VANA for Cathy Harrison, CRNA.

Ms. Dotson left the meeting.

Dr. Watters recommended Dr. Harrison highly.

Ms. Hershkowitz asked for the hand vote in favor of Dr. Harrison. There were five votes of yes out six.

Committee Members discussed the need for Advisory Committee Members in the future and encouraged Dr. Lipato to reapply. Ms. Hershkowitz thanked Mr. Watters for his years of service.

Review of Comprehensive Addiction and Recovery Act (CARA); implications for Nurse Practitioners with prescriptive authority:

Ms. Douglas noted that this is provided as information only and no action is needed. She then referred the Committee to Sec. 303 of the law and noted that there will be more discussion between agencies regarding this section and DHP has not taken any position on this matter. Ms. Douglas added that NPs would need to comply with federal requirements in order to be qualified providers.

Recommendation from BON regarding licensure renewal continued competency requirements related to pharmacology. Should there be a requirement that includes course content in Substance Abuse Disorders and Opioid prescribing?:

Ms. Douglas stated that a 2016 new law now requires all licensees who prescribe to complete two hours of continuing education (CE) on the topics related to pain management, the responsible prescribing of controlled substances, and the diagnosis and management of addiction. Ms. Douglas added that this requirement includes NPs who have Prescriptive Authority. She noted that she was made aware of the notification that Dr. Harp, BOM Executive Director, plans to send by e-mails to all licensees who prescribe. She commented that there is not action needed at this time. The Committee agreed that this addresses the suggestion made by the BON.

Nurse Practitioner Licensure Update:

Ms. Willinger reported the following:

- There have been no complaints received recently from NPs;
- Complaints in the prior few months allowed for identification of issues and solutions for more efficient communication internally/externally and better management of application supporting documents;
- Solutions included:
 - § process in place to track applications and to record the national certificate numbers and expiration dates in licensing database which also populates in the Prescriptive Authority license record which is helpful for renewal and audit purposes;
 - § Applications and instructions were revised and streamlined to route supporting information to the correct email address closely monitored by licensing staff, inclusion of table in “paper” application with corresponding specialties, clarification of process/requirements for NP exam and endorsement applications

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and for those current licensees adding specialties, inclusion of hyperlinks to applicable regulations and RN requirements and more concise online “checklist” viewed by online applicants;

- Licensing staff education regarding other states’/certifying agency’s licensure/certification requirements and methods of verifying supporting information; and
- Data tracking of affirmative application answers for questions related to military service.

Regulatory Update:

Ms. Yeatts stated that there are no regulations outstanding for NPs and nothing additional to report.

Review of 2017 Joint Boards meeting dates:

Ms. Hershkowitz stated that a copy of the 2017 Joint Boards has been provided to all members. She noted that the next meeting is scheduled for Wednesday, February 8, 2017.

RECESS: The Board recessed at 11:25 A.M. Ms. Yeatts and Advisory Committee members left the meeting.

RECONVENTION: The Board reconvened at 11:30 A.M.

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATION:

CLOSED MEETING: Dr. Poston moved that the Committee of the Joint Board of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:30 A.M., for the purpose of consideration of agency subordinate recommendation. Additionally, Dr. Poston moved that Ms. Douglas, Ms. Vu 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 11:45 A.M.

Dr. Poston moved that the Committee of the Joint Board of Nursing and Medicine 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.

**Kimberly Maigi, LNP 0024-171831; Prescriptive Authority 0017-142639
(Virginia RN license 0001-254913)**

Ms. Maigi did not appear.

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Dr. Poston moved that the Committee of the Joint Board of Nursing and Medicine modify the recommended decision of the agency subordinate to delete reprimand and to impose monetary penalty of \$100.00 to pay within 60 days from entry of the Order. The motion was seconded and carried unanimously.

Ms. Hershkowitz reminded available Board Members that assistance was needed with probable cause review following the meetings.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 11:46 A.M.

Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director