

**VIRGINIA BOARD OF NURSING
MINUTES
September 18, 2018**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on September 18, 2018, in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Louise Hershkowitz, CRNA, MSHA; President

BOARD MEMBERS PRESENT:

Jennifer Phelps, BS, LPN, QMHPA; First Vice President
Marie Gerardo, MS, RN, ANP-BC; Second Vice President
Laura Freeman Cei BS, LPN, CCRP
Margaret J. Friedenberg, Citizen Member
Ann Tucker Gleason, PhD, Citizen Member
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP
Michelle D. Hereford, MSHA, RN, FACHE – **joined at 11:55 A.M.**
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC – **joined at 11:37 A.M.**
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Meenakshi Shah, BA, RN
Grace Thapa, DNP, FNP-BC, AE-E

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Stephanie Willinger; Deputy Executive Director for Licensing
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Lisa Speller-Davis, BSN, RN; Policy Assistant
Ann Tiller, Compliance Manager
Huong Vu, Executive Assistant

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General, Board Counsel
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

IN THE AUDIENCE: Cynthia Fagan, Virginia Council of Nurse Practitioners (VCNP)
Val Wrobel, VCNP
Judy Collins, VCNP
Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)
Jerry J. Gentile, Department of Planning Budget (DPB)
W. Scott Johnson, Medical Society of Virginia (MSV)
Michelle Parr, Samford University
Marsha Stonehill, Melt the Ice
Debbie Hartman, Paul D. Camp Community College
Margarita Simon, Simon Wound Consulting

ESTABLISHMENT OF A QUORUM:

Ms. Hershkowitz asked Board Members and Staff to introduce themselves. With 12 members present, a quorum was established.

ANNOUNCEMENTS: Ms. Hershkowitz welcomed Ms. McElfresh to her first meeting as a Board Member. Ms. McElfresh shared her background.

Ms. Hershkowitz highlighted the announcements on the agenda.

- Welcome to New Board Member → Dixie McElfresh, LPN, August 17, 2018, to serve an unexpired term beginning March 21, 2017, and ending June 30, 2019, to succeed Regina Gilliam, LPN
- Jay P. Douglas, Executive Director for Virginia Board of Nursing, was appointed to the NCSBN Board of Directors Area III Director
- Rebecca Poston, PhD, RN, CPNP, former Board Member, has accepted the P-14 Agency Subordinate/Probable Cause Review position. She started on September 6, 2018

UPCOMING MEETINGS: Ms. Hershkowitz noted the upcoming meetings on the agenda:

- The NCSBN Board of Directors (BOD) meeting is scheduled for September 17, 2018 – Ms. Douglas attended
- The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for Wednesday, October 10, 2018 at 9:00 am in Board Room 2
- The NCSBN Board of Directors (BOD) meeting is scheduled for October 15-16, 2018 – Ms. Douglas will attend
- **REMINDER – November Board dates are Tuesday, 11/13, Wednesday, 11/14, and Thursday, 11/15**

**DIAGLOGUE WITH DHP
CHIEF DEPUTY:**

Dr. Allison-Bryan reported the following information on behalf of Dr. Brown, who is attending meeting downtown:

- **Pharmaceutical Processor** – Board of Pharmacy will be awarding permits. There will be five facilities throughout Virginia (one in each health district) for the production of Cannabidiol (CBD) and THC-A oils. The Board of Pharmacy received 51 applications which were reviewed the Ad Hoc Committee. The processors are expected to go live in 2019. Prior to this law change, a neurologist could certify the use of the oils only for intractable epilepsy. 2018 legislation approved prescribing of the oils by any physician for any condition.
- **Conversion Therapy on Minors** – the Workgroup will meet in the first week of October to draft proposed regulations to address this issue. Representatives of Boards with practitioners whose scope of practice includes counseling will be included. Ms. Minton and Ms. Phelps will participate in the Workgroup.
- **Report on non-fatal opioid overdose for emergency room physicians to prescribers** – the Prescription Monitoring Program (PMP) and DHP is working with other stakeholders to facilitate the

reporting of patient overdose data to prescribers. A progress report is being prepared for the General Assembly.

- **Electronic Prescription** – 2017 legislation requires all opioid prescribing to be done electronically by 2020. This is progressing. A workgroup is preparing a report on exceptions to include practitioners who do not have electronic medical record systems
- **Community Health Workers** – DHP hosted a stakeholders meeting to determine if this group required additional certification. A report is being prepared for Delegate Orrock; of note, VDH is providing training and certification programs for these workers.

ORDERING OF AGENDA: Ms. Hershkowitz asked staff to provide additions and/or modifications to the Agenda. None was noted.

CONSENT AGENDA: The Board did not remove any items from the consent agenda.

Mr. Monson moved to accept the consent agenda as presented. The motion was seconded and carried unanimously.

Minutes:

| | |
|---------------|---|
| July 16, 2018 | Panel – Ms. Phelps |
| July 17, 2018 | Quorum – Ms. Hershkowitz |
| July 18, 2018 | Quorum – Possible Summary Suspension Consideration - Ms. Hershkowitz |
| July 18, 2018 | Panel – Ms. Hershkowitz |
| July 18, 2018 | Panel – Ms. Phelps |
| July 19, 2018 | Panel – Ms. Hershkowitz |

Reports:

Agency Subordinate Tracking Log
Finance Report for FY18 ending June 30, 2018
Board of Nursing Monthly Tracking Log
HPMP Quarterly Report, April – June 2018

REPORTS:

Executive Director Report:

Ms. Douglas reported the following in addition to her written report:

- **Board staff update** – Pat Dewey has accepted the Discipline Case Manager RN position for the Nurse Aide, Medication Aide and Massage Therapy Programs. A specific start date will be determined soon. The Board's vacant positions are the replacement Deputy Executive Director, RN Discipline Case Manager, Nurse Practitioner Licensing Application Compliance Specialist, Licensing Examination Supervisor, and CNA Discipline Specialist
- **The Enhanced Nurse Licensure Compact (ENLC):**

- ❖ Development of rules and regulations for the Commission is in process
- ❖ Challenges are present in states with both RN and LPN Boards so collaboration is required.
- ❖ Some Compact States offer a choice of single state or multi-state license versus the default licenses being one with multi-state privilege
- ❖ The Commission anticipates an additional three or four states will join the Compact next year
- ❖ Ms. Douglas' term on the Executive Commission will end October 1, 2018. She will continue to represent Virginia at the Commission of ENLC

NCSBN Annual Meeting, August 15-17, 2018:

Ms. Hershkowitz stated that the reports of the meeting are provided and asked if Ms. Minton and Ms. Ridout had additional information to add.

Ms. Minton said that she is appreciative of the opportunity to attend the meeting and had the opportunity to talk to NCSBN about Committee to Ongoing Regulatory Excellence (CORE) data.

Ms. Ridout said that she had the opportunity to network with other states' education consultants. She added that some states are limiting the number of times a person can take the NCLEX and some states are limiting the time period after graduation that applicants can take NCLEX before having to receive additional education. She noted that a survey can be sent to all states to find out their regulations regarding NCLEX.

Ms. Douglas stated that NCSBN celebrated its 40th Anniversary at this meeting and Corrine Dorsey, former Executive Director for Virginia Board of Nursing, was invited to the celebration since Ms. Dorsey was part of the establishment of NCSBN in the 90's. Ms. Douglas added that information about NCSBN history can be sent to Board Members for review. All agreed.

Nurse Aide Curriculum Committee July 17, 2018 Meeting Minutes:

Dr. Hahn highlighted the minutes as presented in the agenda noting that it took two years plus of work and the Committee has finished its work on the curriculum. She added that the Committee will review its final work in November 2018 meeting.

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

Board of Health Professions (BHP) August 23, 2018 meeting minutes:

Ms. Minton reviewed the minutes as presented in the agenda noting that the Board of Counseling accepted the recommendation of the Regulatory

Research Committee to license Art Therapists in Virginia.

OTHER MATTERS:

Board Counsel Update:

Ms. Mitchell stated that the Board has the following matters pending:

- Mr. Yeboah's appeal in Prince William County which was not filed in a timely manner. She noted that the motion to dismiss was filed by the Board.
- Mr. Myers filed an appeal against the Board of Nursing, Board staff and two other Boards in Eastern District Court. She added that she moved to dismiss on behalf of everyone
- Ms. Hyland appealed the Board's decision in Fairfax since the Board denied her application for licensure because she did not have LPN education in the U.S.

Appointment of Disciplinary Committee Members:

Ms. Hershkowitz announced the Disciplinary Committee Members are Ms. Gerardo, as Chair, Ms. Cei and Dr. Gleason.

Ms. Herhskowitz added the Ms. Friedenber is the new member on the CORE Committee with Ms. Minton, as Chair, and Dr. McQueen-Gibson.

Ms. Minton provided an overview of the CORE.

Develop plan for Review of Guidance Documents (GD):

Ms. Hershkowitz said that the GDs will need to be reviewed every four years. Ms. Douglas noted that several GDs are up for review and suggested that Board staff will review GD with minimal changes needed first and will present for Board consideration in November 2018. Ms. Douglas added that additional GDs needing extensive review and possible expert input will be identified and acted on in a staggered manner at future meetings. Ms. Douglas noted that public comments may be needed for revision of the GDs. Board members agreed to this plan.

PUBLIC COMMENT: There was no public comment made.

RECESS: The Board recessed at 10:00 A.M.

RECONVENTION: The Board reconvened at 10:15 A.M.

OTHER MATTERS (cont.): **DHP Paperless Initiative – License Verification and Issuance of Licenses:**

Ms. Douglas stated that DHP Paperless Committee has finalized its work and starting in 2019, all 13 Boards will no longer issue hard paper licenses, certifications, registrations, and permits upon renewal. She added that a final hard copy will be issued that contains no expiration date during the next renewal. Wall Certificates will continue to be issued and new licensees will

receive a hard copy license with no expiration date indicated. She noted that this is a huge cost saving for DHP and will reduce the risk of fraud.

Ms. Douglas said that verification of current licensure status may be obtained via License Lookup serving as primary source verification. Licensees who wish to obtain paper license can do so by paying duplicate fee.

Ms. Douglas added that Licensed Massage Therapist is the only Board of Nursing profession that has posting requirement.

EDUCATION:

Education Informal Conference Committee September 5, 2018 Minutes and Recommendations:

Dr. Hahn reviewed the September 5, 2018 minutes including recommendation to withdraw Paul D. Camp Practical Nursing's approval to operate a practical nursing program and the withdraw of approval is stayed with terms and conditions.

Ms. Gerardo moved to accept the minutes as presented. The motion was seconded and carried unanimously.

Dr. Thapa moved to accept the recommendation to withdraw Paul D. Camp Practical Nursing's approval to operate a practical nursing program and the withdraw of approval is stayed with terms and conditions. The motion was seconded and carried unanimously.

Education Staff Report:

Ms. Ridout said that she has discussed with Janet Wall, CEO of the Virginia Nurses Association, ideas regarding broader dissemination of information about Mary Marshall Scholarship Fund.

Changes to the Nurse Aide Exam (NNAAP):

Ms. Ridout said that this is provided for information only.

Increase in Fee Proposal from PearsonVUE Nurse Aide Exam – CLOSED MEETING

CLOSED MEETING:

Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(29) of the *Code of Virginia* at 10:36 A.M. for the purpose of consideration increase in fee proposal from PearsonVUE Nurse Aide Exam. Additionally, Ms. Gerardo moved that Ms. Douglas, Dr. Hills, Ms. Ridout, Ms. Willinger, Ms. Tiller, Ms. Speller-Davis, 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 11:30 A.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 stated that Board staff are directed to communicate the Board's intent about fee proposal to the DHP Procurement Officer.

RECESS:

The Board recessed at 11:30 A.M.

RECONVENTION:

The Board reconvened at 11:37 A.M.

Dr. McQueen-Gibson joined the meeting at 11:37 A.M.

Dr. Deborah Hartman, Dean of Nursing and Allied Health at Paul D. Camp Community College – Practical Program, thanked the Board for the opportunity to comment. Dr. Hartman stated that the school will meet all the terms and conditions of the Board Order.

Ms. Hereford joined the meeting at 11:55 A.M.

LEGISLATION/
REGULATION:

Status of Regulatory Action:

Ms. Yeatts reviewed the chart of regulatory actions provided in the agenda noting Clarification of 90-day authorization to practice, Clinical nurse specialist requirement for registration, and Supervision and direction of laser hair removal are now at the Governor's Office for 13 days.

Adoption of Emergency Action on Regulations for Autonomous Practice for Certain Nurse Practitioners (HB793):

Ms. Yeatts said that the HB793 was passed by the 2018 General Assembly and the 2nd enactment clause requires regulations to be in effect within 280 days of enactment, which is January 9, 2019. She added that the Boards of Nursing and Medicine must adopt identical regulations.

Ms. Yeatts added that the Board of Medicine, at its meeting on August 3, 2018, discussed the public comment previously considered by the Board of Nursing and the regulations as adopted by the Board of Nursing, one amendment was adopted relating to the definition of the equivalent of five years of full-time clinical practice.

Ms. Yeatts said that the amended regulations are presented for Board consideration and adoption.

Ms. Friedenberg moved to adopt the amended regulations as presented. The motion was seconded and carried unanimously.

Adoption of Proposed Regulations to Eliminate Separate License for Prescriptive Authority (18VAC90-40):

Ms. Yeatts reviewed the proposed regulations provided in the agenda.

Dr. Hahn moved to adopt the proposed regulations as presented. The motion was seconded and carried unanimously.

Request for Extension of Emergency Regulations on Prescribing of Opioids for Nurse Practitioners (18VAC90-30 and 40):

Ms. Yeatts stated that the emergency regulations will expire on November 7, 2018 and the Board cannot adopt final regulations for at least 15 days after the close of the comment period on proposed regulations, comment period was closed on September 9, 2018. She added that a request must be filed to extend the emergency regulations for another six months to allow completion of the promulgation of replacement regulations.

Mr. Monson moved to approve the request to extend the emergency regulations for prescribing of opioids medications for six months beyond the expiration date of November 7, 2018. The motion was seconded and carried unanimously.

Review of Staff Recommendations for the Period Review for four Regulations:

Ms. Yeatts reviewed substance of changes as presented in the agenda package.

Mr. Monson moved to adopt the Regulations Governing Delegation to an Agency Subordinate by a fast-track action as presented. The motion was seconded and carried unanimously.

Mr. Monson moved to adopt the Regulations for Medication Administration Training and Immunization Protocol (Change in title of regulation) by a fast-track action as presented. The motion was seconded and carried unanimously.

Dr. Hahn moved to adopt a Notice of Intended Regulatory Action for Regulations for Nurse Aide Education Programs as presented. The motion was seconded and carried unanimously.

Dr. Hahn moved to adopt a Notice of Intended Regulatory Action for Regulations Governing Certified Nurse Aides as presented. The motion was seconded and carried unanimously.

Dr. Hahn moved to adopt a Notice of Intended Regulatory Action for Regulations Governing the Registration Medication Aides as presented. The motion was seconded and carried unanimously.

RECESS: The Board recessed at 12:35 P.M.

RECONVENTION: The Board reconvened at 1:15 P.M.

CONSIDERATION OF CONSENT ORDERS:

Miranda Lee Hamblin, RN **0001-213222**

Ms. Gerardo moved to accept the consent order of voluntary surrender for indefinite suspension of Miranda Lee Hamblin's license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Kimberly A. Whalen Josephson, RN **0001-176201**

Ms. Gerardo moved to accept the consent order to reprimand Kimberly A. Whalen Josephson and to indefinitely suspend her license to practice professional nursing in the Commonwealth of Virginia. The suspension is stayed contingent upon Ms. Josephson's continued compliance with all terms and conditions of the Virginia Health Practitioners' Monitoring Program (HPMP) for the period specified by the HPMP. The motion was seconded and carried unanimously.

Carla P. Stearns, RN **0001-063037**

Ms. Gerardo moved to accept the consent order of voluntary surrender for indefinite suspension of Carla P. Stearns' license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Stanley David Vuicich, RN **0001-180119**

Ms. Gerardo moved to accept the consent order to reprimand Stanley David Vuicich and to indefinitely suspend his license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Amarjot Kaur, RN **0001-234526**

Ms. Gerardo moved to accept the consent order to indefinitely suspend the license of Amarjot Kaur to practice professional nursing in the Commonwealth of Virginia. The suspension is stayed contingent upon Ms.

Kaur's continued compliance with all terms and conditions of the Virginia Health Practitioners' Monitoring Program (HPMP) for the period specified by the HPMP. The motion was seconded and carried unanimously.

Brett Lars Crawford, Jr., RN **0001-254942**

Ms. Gerardo moved to accept the consent order to reinstate the license of Brett Lars Crawford, Jr. to practice professional nursing in the Commonwealth of Virginia and to take no further action contingent on Mr. Crawford's compliance with all terms and conditions. The motion was seconded and carried unanimously.

David Workman Mitchell, RN **0001-143493**

Ms. Gerardo moved to accept the consent order to reinstate the license of David Workman Mitchell to practice professional nursing in the Commonwealth of Virginia without restriction. The motion was seconded and carried unanimously.

BOARD MEMBER
TRAINING:

Informal Conference Committee Process: Role of Participants – James Banning, Executive Director of the Administrative Proceeding, provided the training to Board members and staff

ADJOURNMENT:

The Board adjourned at 3: 28 P.M.

Louise Hershkowitz, CRNA, MSHA
President