

VIRGINIA BOARD OF NURSING

Final Agenda

Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233

Tuesday, November 13, 2018

9:00 A.M. - Business Meeting of the Board of Nursing – Quorum of the Board - Conference Center Suite 201 – Board room 2

Call to Order: Louise Hershkowitz, CRNA, MSHA; President

Establishment of a Quorum.

Announcements:

- Charlette Ridout has accepted the Deputy Executive Director position for the Nurse Aide, Medication Aide and Massage Therapy Program position effective October 1, 2018
- Pat Dewey has accepted the Discipline Case Manager RN for the Nurse Aide, Medication Aide and Massage Therapy Program position effective October 1, 2018
- Brenda Hundley has accepted the Discipline Specialist for Nurse Aide, Medication Aide and Massage Therapist Program position effective October 1, 2018
- Joseph Corley has accepted the Nurse Practitioner Licensing Application Compliance Specialist effective October 10, 2018
- Ms. Gerardo appointed as the Chair for the Committee of the Joint Boards of Nursing and Medicine effective December 5, 2018

Upcoming Meetings:

- The Nurse Licensure Compact Strategic Planning Meeting is scheduled for November 28-29, 2018 in Nashville, TN. Ms. Douglas will attend as Commissioner
- The NCSBN Board of Directors Meeting is scheduled for December 3-4, 2018 in Chicago. Ms. Douglas will attend the meeting
- The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for Wednesday, December 5, 2018 at 9:00 am in Board Room 4

Dialogue with DHP Chief Deputy – Dr. Allison-Bryan

Review of the Agenda: (Except where times are stated, items not completed on November 13, 2018 will be completed on November 14, 2018.)

1. Additions, Modifications
2. Adoption of a Consent Agenda

Disposition of Minutes:

C July 18, 2018	Board of Nursing Officer Meeting – Ms. Hershkowitz*
C September 17, 2018	Panel – Ms. Phelps *
C September 18, 2018	Quorum – Ms. Hershkowitz*
C September 18, 2018	Board of Nursing Office Meeting – Ms. Hershkowitz
C September 19, 2018	Panel – Ms. Phelps*
C September 19, 2018	Panel – Ms. Gerardo*
C September 20, 2018	Panel – Ms. Hershkowitz*
C October 23, 2018	Telephone Conference Call – Ms. Hershkowitz*

Reports:

- C Agency Subordinate Tracking Log*
- C Finance Report as of September 30, 2018*
- C Board of Nursing Monthly Tracking Log
- C HPMP Quarterly Report, June - September 2018*
 - Executive Director Report – Ms. Douglas
 - ❖ Board of Directors Meeting, October 15-16, 2018, Report
 - ❖ International Nurse Regulator Collaborative (INRC) Symposium, October 22-23, 2018, Report
 - CORE Committee September 18, 2018 Meeting Minutes – Ms. Minton*
 - The Committee of the Joint Boards of Nursing and Medicine October 10, 2018 Business Meeting and Informal Conference Minutes – Ms. Hershkowitz**
 - NCSBN Update, President Letter – FYI*

Other Matters:

- Board Counsel Update – Charis Mitchell (oral report)
- Review of Guidance Documents – Ms. Speller-Davis**
 - 90-1:** RN/LPN as First Assistants in Surgery
 - 90-15:** Use of Cervical Ripening Agents
 - 90-17:** Cutting of Corns and Warts by RN's and LPN's
 - 90-19:** Epidural Anesthesia by RN's and LPN's
 - 90-23:** Decision-Making Model for Determining RN/LPN Scope of Practice
 - 90-26:** Requests by Revoked Certified Nurse Aides with Prior Adverse Findings
 - 90-34:** Requests for Review and Challenges of NCLEX
 - 90-40:** Surveillance Activities Required by OSHA Respiratory Standards
 - 90-41:** Patient Abandonment by Care Providers
 - 90-42:** Reinstatement following Mandatory Suspension
 - 90-43:** Attachment of Scalp Leads for Internal fetal Monitoring
 - 90-46:** Administration of Certain Over-the-Counter Drugs by Certified Nurse Aides
 - 90-48:** Guidance on the Use of Social Media
- CBC Audit Update – Ms. Willinger
- Informal Conference Schedule for the first half of 2019 – Ms. Power
- Board Member availability for January 2019 Board Week – Ms. Douglas

Education:

- Education Informal Conference Committee November 1, 2018 Minutes and Recommendations – Ms. Minton
- Education Staff Report

10:00 A.M. - Public Hearing

To receive public comment on Proposed Regulations for Supervision by Nurse Practitioners of Laser Hair Removal (18VAC90-30)**

Public Comment

VCU/BON Study – “*Is there a Relationship between the Level of Education of Registered Nurses and the Incidence of State Board Violations?*” – **presentation by**

Catherine Neal, MS, RN, CMSRN, Nurse Manager at VCU Health System and

Patricia M. Selig, PhD, FNP-BC, Director at Center for Advance Practice of VCU Medical Center

Legislation/Regulations – Ms. Yeatts

- Status of Regulatory Actions**
- Adoption of Final Regulatory Action on Prescribing of Opioids and Buprenorphine by Nurse Practitioners (18VAC90-30 and 40)**

Consent Orders: (Closed Session)

- None

12:00 P.M. – Lunch

1:00 P.M. – Board Member Dialogue

- Board Processes and Board Members’ Roles

ADJOURNMENT

Committees’ Meetings

3:00 P.M. – Probable Cause Case review in **Board Room 2**

Board Members – Ms. Hershkowitz, Ms. McElfresh, Ms. Shah and Dr. Thapa

Board Staff – Ms. Douglas and Ms. Tiller

3:00 P.M. – CORE Committee meeting in **Board Room 2**

Board Members – Ms. Minton,* Dr. McQueen-Gibson, and Ms. Friedenber

Board Staff –Ms. Ridout

3:00 P.M. – Nurse Aide Curriculum Committee Meeting in **Board Room 3**

Board Members – Dr. Hahn,* Ms. Phelps, and Mr. Monson

Board Staff – Dr. Saxby

3:00 P.M. – Discipline Committee meeting in **Board Room 2**

Board Members – Ms. Gerardo,* Ms. Cei, and Dr. Gleason

Board Staff –Ms. Power and Dr. Hills

(* mailed 10/24) (** mailed 10/31)

Virginia Board of Nursing

Officer Meeting

July 18, 2018 Minutes

Time and Place: The meeting of the Board of Nursing Officer meeting was convened at 8:00 A.M. on July 18, 2018 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201 – Board Room 2, Henrico, Virginia.

Board Members Present: Louise Hershkowitz, CRNA, MSHA, President, Chairperson
Jennifer Phelps, LPN, QMHPA, First Vice President
Marie Gerardo, MS, RN, ANP-BC, Second Vice President

Staff Members Present: Jay P. Douglas, RN, MSM, CSAC, FRE

1. Purpose of Board of Officer meetings
 - a. Topics
 - b. Roles of Board Officers

2. New Board members
 - a. Orientation/Mentor
 - ❖ Ms. Hereford is Ms. Shah's mentor
 - ❖ Ms. Minton is Dr. Gleason's mentor
 - b. Panel assignments
 - ❖ Disciplinary Committee members are Ms. Gerardo, as Chair, Ms. Cei and Dr. Gleason

3. Board training
 - a. July – Probable Cause Review
 - b. September – Informal Conferences (Chairing, APD role, ect.)
 - c. Future Topics
 - d. Evaluation

4. Health Practitioners' Monitoring Program (HPMP)
 - a. Update Information
 - b. Marijuana/CBD oil issues
 - c. Medical Assisted Treatment (MAT) issues for practitioners

Ms. Douglas noted that Ms. Peggy Wood, HPMP Liaison, is not available in November, but will ask HPMP Director to attend the meeting.

Virginia Board of Nursing
Officer Meeting Minutes
July 18, 2018

Ms. Douglas will also email Board members for any topics they want to know about HPMP

5. Regulations for Autonomous NP practice
6. Executive Director/Staff issues – none noted
7. Other Business

The meeting was adjourned at 9:40 A.M.

DRAFT

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
September 17, 2018**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 11:00 A.M., on September 17, 2018 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Jennifer Phelps, BS, LPN, QMHPA, First Vice President
Laura F. Cei, BS, LPN, CCRP
Tucker Gleason, PhD, Citizen Member
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP
Michelle D. Hereford, MSHA, RN, RACHE
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC - **joined at 1:35 P.M.**

STAFF PRESENT:

Robin L. Hills, DNP, RN, WHNP, Deputy Executive Director for
Advanced Practice
Jane Elliott, PhD, RN; Discipline Staff
Lisa Speller-Davis, RN, BSN; Policy Assistant
Darlene Graham, Senior Discipline Specialist

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel
Senior Nursing Students from Bon Secours Memorial College
Senior Nursing Students from Virginia Commonwealth University, School
of Nursing – **joined at 1:35 P.M.**

ESTABLISHMENT OF A PANEL:

With six members of the Board present, a panel was established.

FORMAL HEARINGS:

Amber Dawn Kendrick Harris, LPN 0002-066126
Ms. Harris did not appear.

Tammie Jones, 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,
and Amy Stewart, Health Practitioners' Monitoring Program Case
Manager, were present and testified.

CLOSED MEETING:

Dr. Gleason moved that the Board of Nursing convene a closed meeting
pursuant to §2.2-3711(A)(27) of the Code of Virginia at 11:24 A.M., for
the purpose of deliberation to reach a decision in the matter of Ms. Harris.

Additionally, Dr. Gleason moved that Dr. Hills, Dr. Elliott, Ms. Speller-Davis, Ms. Graham, 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 11:31 A.M.

Ms. Cei 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.

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

ACTION: Dr. Hahn moved that the Board of Nursing continue the license of Amber Dawn Kendrick Harris to practice practical nursing in the Commonwealth of Virginia on indefinite suspension for a period of not less than two years. The motion was seconded and carried unanimously.

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

Ms. Speller-Davis left the meeting at 11:35 A.M.

RECESS: The Board recessed at 11:35 A.M.

RECONVENTION: The Board reconvened at 1:35 P.M.

Dr. McQueen-Gibson joined the meeting 1:35 P.M.

FORMAL HEARINGS: **Melissa Beth Weant, RN** **0001-187120**
Ms. Weant did not appear.

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.

Margaret Starks, Senior Investigator, Department of Health Professions, was present and testified.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the Code of Virginia at 2:12 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Weant. Additionally, Dr. Gleason moved that Dr. Hills, Dr. Elliott, Ms. Graham, 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 2:36 P.M.

Ms. Cei 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.

Mr. Monson 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: Dr. Hahn moved that the Board of Nursing continue the license of Melissa Beth Weant to practice professional nursing in the Commonwealth of Virginia on indefinite suspension for a period of not less than three years. The motion was seconded and carried unanimously.

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

FORMAL HEARINGS: **Valerie Lynch Vandiver, LPN** **0002-074488**
Ms. Vandiver did not appear.

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

James Wall, Senior Investigator, Department of Health Professions, and Christina Senda-Breitberg, Administrator at Thornton Hall Nursing Rehab Center, were present and testified.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the Code of Virginia at 3:37 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Vandiver.

Additionally, Dr. Gleason moved that Dr. Hills, Dr. Elliott, Ms. Graham, 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 4:10 P.M.

Ms. Cei 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.

Dr. McQueen-Gibson moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Kazzie and amended by the Board. The motion was seconded and carried unanimously.

ACTION: Mr. Monson moved that the Board of Nursing continue the license of Valerie Lynch Vandiver to practice as practical nursing in the Commonwealth of Virginia on indefinite suspension with suspension stayed contingent upon Ms. Vandiver's entry into the Health Practitioners' Monitoring Program (HPMP). The motion was seconded and carried unanimously.

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

ADJOURNMENT: The Board adjourned at 4:15 P.M.

Robin L. Hills, DNP, RN, WHNP
Deputy Executive Director for Advanced
Practice

Virginia Board of Nursing

Officer Meeting

September 18, 2018 Minutes

Time and Place: The meeting of the Board of Nursing Officer meeting was convened at 8:00 A.M. on September 18, 2018 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201 – Board Room 2, Henrico, Virginia.

Board Members Present: Louise Hershkowitz, CRNA, MSHA, President, Chairperson
Jennifer Phelps, LPN, QMHPA, First Vice President
Marie Gerardo, MS, Rn, ANP-BC, Second Vice President

Staff Members Present: Jay P. Douglas, RN, MSM, CSAC, FRE

In the Audience: Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)

1. Regulations for Autonomous Nurse Practitioner practice
 - a. Emergency status – discussed that these regulations are emergency regulations and there will be an opportunity for further comment.
 - b. On August 3, 2018, the Board of Medicine adopted one amendment of the definition of five years of full-time practice from 1600 to 1800 hours as the equivalent of one year
 - c. Virginia Council of Nurse Practitioners (VCNP) to send out a communication about these regulations and to encourage VCNP members to attend Board of Nursing meetings
2. Board Training
 - ❖ **September:** Informal Conference Process – Role of Participants – training provided by James Banning, Executive Director for the Administrative Proceeding Division
 - ❖ **November:** Health Practitioners' Monitoring Program (HPMP)
 - a) Marijuana Guidelines
 - b) Medical Assisted Treatment (MAT)
 - c) Pain Management

Ms. Phelps asked what other topics that Board members need to know – the books Dopesick and Dreamland were discussed

Ms. Hershkowitz commented that Dopesick is well written regarding opioid epidemic

Ms. Phelps and Ms. Douglas will work on agenda for November training

❖ **Future topics** – how cases effect/impact Board members' personally

❖ **Evaluation of Board Training process**

Ms. Hereford suggested to Ms. Hershkowitz that a debriefing question to be included on agenda

3. Leadership development/succession activities

- ❖ Committee participation
- ❖ Officer succession
- ❖ NCSBN meetings
- ❖ Nomination process and roles
- ❖ Involving more Board members in making motions
- ❖ Increasing Agency Subordinate Informal Conferences to reserve Board members for Formal Hearings
- ❖ Probable Cause review – Board members involvement is essential at this time
- ❖ Plan to look at data regarding mandatory reports and outcomes of cases
- ❖ Discipline Committee members are Ms. Gerardo, as Chair, Ms. Cei and Dr. Gleason
- ❖ Special Conference Committee “G” members are Ms. Hershkowitz, as Chair, and Ms. McElfresh due to now having 14 members on the Board

4. Executive Director/Staff issues

Ms. Douglas provided information regarding staff vacancies which is impacting work load of remaining staff

5. Other business

The Officers discussed an idea of performing an environmental scan at meetings in an effort to increase Board member and staff knowledge regarding current practice issues in variety of settings

The meeting was adjourned at 9:40 A.M.

**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. Friedenbergl, 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 or 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 Dewy 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 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. Friedenberg 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 expired 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.

**VIRGINIA BOARD OF NURSING
MINUTES**

September 19, 2018

Panel - A

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:05 A.M. on September 19, 2018 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Jennifer Phelps, BS, LPN, QMHPA, First Vice President
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP
Michelle D. Hereford, MSHA, RN, RACHE
Ethlyn McQueen-Gibson, MSN, RN, BC
Mark Monson, Citizen Member
Meenakshi Shah, BA, RN

STAFF PRESENT:

Robin L. Hills, DNP, RN, WHNP, Deputy Executive Director for Advanced Practice
Ann Tiller, Compliance Manager
Darlene Graham, Senior Discipline Specialist

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel

ESTABLISHMENT OF A PANEL:

With six members of the Board present, a panel was established.

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATIONS:

CLOSED MEETING:

Ms. Hereford moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:09 A.M., for the purpose of consideration of the agency subordinate recommendations, except for recommendation number 1, Siyosette Deberry, CNA. Additionally, Ms. Hereford moved that Dr. Hill, Ms. Tiller, Ms. Graham and Ms. Mitchell, Board counsel, 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 10:13 A.M.

Ms. Hereford 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.

Krista Jade Burnett Overby, CNA 1401-128904
Ms. Overby did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Krista Jade Burnett Overby. The motion was seconded and carried unanimously.

Regine Felicite Kammegne Dzukou, CNA 1401-177515
Ms. Dzukou did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Regine Felicite Kammegne Dzukou. The motion was seconded and carried unanimously.

Regine Felicite Kammegne Dzukou, RMA 0031-009519
Ms. Dzukou did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Regine Felicite Kammegne Dzukou. The motion was seconded and carried unanimously.

Ramona Theresa Leggett, RMA 0031-005126
Ms. Leggett did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Ramona Theresa Leggett. The motion was seconded and carried unanimously.

Ramona Theresa Leggett, CNA 1401-111062
Ms. Leggett did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Ramona Theresa Leggett. The motion was seconded and carried unanimously.

Darlene Renee Gilkerson, RMA 0031-003867
Ms. Gilkerson did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Darlene Renee Gilkerson. The motion was seconded and carried unanimously.

Yuan Cooper, RN 0001-248167
Ms. Cooper did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Yuan Cooper and to indefinitely suspend her right to renew her license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Stacy Michelle Smith, CNA Applicant

Ms. Smith did not appear.

Mr. Monson moved that the Board of Nursing accept the recommended decision of the agency subordinate to deny the application of Stacy Michelle Smith for certification to practice as a nurse aide in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Evelyn Ingram Simpson, LPN

0002-029614

Ms. Simpson did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to indefinitely suspend the license of Evelyn Ingram Simpson to practice practical nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Stephanie A. Hale, LPN

0002-081525

Ms. Hale did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to indefinitely suspend the license of Stephanie A. Hale to practice practical nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Chasity Lynn McMillian, LPN

0002-074211

Mr. McMillian did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to indefinitely suspend the license of Chasity Lynn McMillian to practice practical nursing in the Commonwealth of Virginia. Said suspension is to be stayed upon proof of Ms. McMillian's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) and compliance with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was seconded and carried unanimously.

Marye Molitoris, RN **Maryland License Number: R092942 with multistate privileges**

Ms. Molitoris did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Marye Molitoris and to require her within 90 days from the date of entry of the Order to provide written proof satisfactory to the Board of successful completion of the NCSBN course “*Professional Accountability & legal Liability for Nurses*.” The motion was seconded and carried unanimously.

Cynthia Ann Wyatt Bennett, RMA **0031-005740**

Ms. Bennett did not appear.

Ms. Hereford moved that the Board of Nursing accept the recommended decision of the agency subordinate to revoke the registration of Cynthia Ann Wyatt Bennett to practice as a medication aide in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Allison Barnes, CNA **1401-141839**

Ms. Barnes did not appear.

Dr. Hahn moved that the Board of Nursing modify the recommended decision of the agency subordinate to reprimand Allison Barnes. The motion was seconded and carried unanimously.

Rebecca Burton, RN **Alabama License Number: 1-122267 with multistate privileges**

Ms. Burton did not appear.

Dr. Hahn moved that the Board of Nursing accept the recommended decision of the agency subordinate to reprimand Rebecca Burton. The motion was seconded and carried unanimously.

Siyossette Deberry, CAN **1401-125156**

Ms. Deberry appeared.

CLOSED MEETING:

Ms. Hereford moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:32 A.M., for the purpose of consideration of the agency subordinate recommendation of Siyossette Deberry, CNA. Additionally, Ms. Hereford moved that Dr. Hill, Ms. Tiller, Ms. Graham and Ms. Mitchell, Board counsel, 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 10:33 A.M.

Ms. Hereford 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.

Mr. Monson moved that the Board of Nursing modify the recommended decision of the agency subordinate to reprimand Siyosette Deberry. The motion was seconded and carried unanimously.

ADJOURNMENT: The Board adjourned at 10:35 A.M.

Robin L. Hills, DNP, RN, WHNP
Deputy Executive Director for Advanced Practice

Ms. Shah 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.

Dr. McQueen-Gibson moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Kazzie and amended by the Board. The motion was seconded and carried unanimously.

ACTION:

Mr. Monson moved that the Board of Nursing reprimand Martina Nicole Crowder and require her to complete within 60 days from the date of entry of the Order two of the following NCSBN courses: *Professional Accountability & Legal Liability for Nurses* and *Righting a Wrong – Ethics & Professionalism in Nursing*. 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 12:55 P.M.

RECONVENTION:

The Board reconvened at 1:30 P.M.

FORMAL HEARINGS:

Lisa Carol Cook Foote, RN

0001-176014

Ms. Foote appeared and was accompanied by Anthony Foote.

Holly Woodcock, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lakisha Jackson, court reporter with Crane-Snead & Associates, recorded the proceedings.

Marcella Luna, Investigator Supervisor, Department of Health Professions, was present and testified.

CLOSED MEETING:

Ms. Hereford moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:55 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Foote. Additionally, Ms. Hereford moved that Dr. Hills, Ms. Tiller, Ms. Graham 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 2:09 P.M.

Ms. Hereford 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.

Dr. McQueen-Gibson moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Woodcock and amended by the Board. The motion was seconded and carried unanimously.

ACTION: Dr. Hahn moved that the Board of Nursing reinstate the license of Lisa Carol Cook Foote to practice professional nursing in the Commonwealth of Virginia. 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: **Robert Eason Lambertson, LPN** **0002-074907**
Mr. Lambertson appeared.

David Kazzie, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Lakesha Jackson, court reporter with Crane-Snead & Associates, recorded the proceedings.

CLOSED MEETING: Ms. Hereford moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:56 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. Lambertson. Additionally, Ms. Hereford moved that Dr. Hills, Ms. Tiller, Ms. Graham 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 4:37 P.M.

Ms. Hereford 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.

Dr. McQueen-Gibson moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Kazzie and amended by the Board. The motion was seconded and carried unanimously.

ACTION:

Mr. Monson moved that the Board of Nursing place Robert Eason Lambertson on probation with terms and conditions for a period of not less than two years of employment from the date 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.

ADJOURNMENT:

The Board adjourned at 4:40 P.M.

Robin L. Hills, DNP, RN, WHNP
Deputy Executive Director for Advanced Practice

**VIRGINIA BOARD OF NURSING
MINUTES**

September 19, 2018

Panel - B

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:04 A.M. on September 19, 2018 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Marie Gerardo, MS, RN, ANP-BC, Second Vice President
Laura Cei, BS, CCRP
Ann Tucker Gleason, PhD, Citizen Member
Dixie McElfresh, LPN
Trula Minton, MS, RN
Grace Thapa, DNP, FNP-BC, AE-C

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Stephanie Willinger; Deputy Executive Director
Sylvia Tamayo-Suijk, Discipline Team Coordinator

OTHERS PRESENT: James Rutkowski, Assistant Attorney General, Board Counsel

ESTABLISHMENT OF A PANEL:

With six members of the Board present, a panel was established.

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATIONS:

Debra K. Taylor, CNA

1401-033603

Ms. Taylor appeared and was accompanied by Ashley Taylor and Jessica Heglar.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:11 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Taylor. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Willinger, Ms. Tamayo-Suijk and Mr. Rutkowski, Board counsel, 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 9:30 A.M.

Dr. Gleason 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.

complete three NCSBN courses; *Documentation: A Critical Aspect of Client Care; Medication Errors: Causes & Prevention* and *Professional Accountability & Legal Liability for Nurses*, within 90 days of entry of the Order, and provide written proof to the Board of successful completion. The motion was seconded and carried unanimously.

Tracey Lynn Sloan, LPN **0002-088673**
Ms. Sloan did not appear.

Ms. Minton moved that the Board of Nursing accept the recommended decision of the agency subordinate to indefinitely suspend the license of Tracey Lynn Sloan to practice practical nursing in the Commonwealth of Virginia. This suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Felicia Nanetta Pollard, RN **0001-148914**
Ms. Pollard did not appear.

Ms. Minton moved that the Board of Nursing accept the recommended decision of the agency subordinate requiring her to complete the following NCSBN course: “*Documentation: A Critical Aspect of Client Care*”, within 90 days of entry of the Order, and provide written proof of successful completion. The motion was seconded and carried unanimously.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:34 A.M., for the purpose of consideration of the agency subordinate recommendations. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Willinger, Ms. Tamayo-Suijk and Mr. Rutkowski, Board counsel, 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 10:09 A.M.

Dr. Gleason 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.

Judy D. Turner, CNA

1401-022838

Ms. Turner did not appear.

Ms. Cei moved that the Board of Nursing accept the recommended decision of the agency subordinate to indefinitely suspend Judy D. Turner's right to renew her certificate to practice as a nurse aide in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Jessica Dean Phoenix, CNA

1401-136986

Ms. Phoenix did not appear but submitted written response.

Dr. Gleason moved that the Board of Nursing accept the recommended decision of the agency subordinate to suspend the certification of Jessica Dean Phoenix to practice as a nurse aide in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Gay Lynn Brown, RN

0001-194184

Ms. Brown did not appear.

Ms. Cei moved that the Board of Nursing accept the recommended decision of the agency subordinate to indefinitely suspend Gay Lynn Brown's right to renew her license to practice practical nursing in the Commonwealth of Virginia. This suspension applies to any multistate privilege. The motion was seconded and carried with five in favor of the motion. Ms. Minton was abstained from voting.

ADJOURNMENT: The Board adjourned at 10:12 A.M.

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

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
September 19, 2018
Panel – B**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 10:22 A.M. on September 19, 2018 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS PRESENT:

Marie Gerardo, MS, RN, ANP-BC, Second Vice President
Laura Cei, BS, CCRP
Ann Tucker Gleason, PhD, Citizen Member
Dixie McElfresh, LPN
Trula Minton, MS, RN
Grace Thapa, DNP, FNP-BC, AE-C

STAFF PRESENT:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Stephanie Willinger; Deputy Executive Director
Sylvia Tamayo-Suijk, Discipline Team Coordinator

OTHERS PRESENT:

James Rutkowski, Assistant Attorney General, Board Counsel

ESTABLISHMENT OF A PANEL:

With six members of the Board present, a panel was established.

FORMAL HEARINGS:

Sheila Murphy, RN MD license # R153466 with Multistate Privilege
Ms. Mursphy did not appear.

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

Tonya James, Compliance Case Manager for the Board of Nursing was present and testified.

CLOSED MEETING:

Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:36 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Murphy. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Willinger, Ms. Tamayo-Suijk and Mr. Rutkowski 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 10:45 A.M.

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

ACTION:

Dr. Gleason moved that the Board of Nursing indefinitely suspend the multistate privilege of Sheila Murphy to practice professional nursing in the Commonwealth of Virginia. 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 10:45 A.M.

RECONVENTION:

The Board reconvened at 1:02 P.M.

FORMAL HEARINGS:

Julie N. Hoover, RN **0001-190334**
Ms. Hoover appeared.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Mr. Rutkowski was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, Inc., recorded the proceedings.

Sarah Rogers, HQ Investigator, Department of Health Professions, was present and testified.

CLOSED MEETING:

Ms. Minton moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:39 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Hoover. Additionally, Ms. Minton moved that Ms. Douglas, Ms. Willinger, Ms. Tamayo-Suijk and Mr. Rutkowski 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 1:53 P.M.

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

ACTION:

Dr. Thapa moved that the Board of Nursing reinstate the license of Julie N. Hoover to practice professional nursing in the Commonwealth of Virginia. 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 1:55 P.M.

RECONVENTION:

The Board reconvened at 2:06 P.M.

FORMAL HEARINGS:

Michelle Renee Dunevant, RN
Ms. Dunevant appeared.

0001-167981

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

Kimberly Lynch, Senior Investigator, Department of Health Professions and Rebecca Britt, Case Manager, Health Practitioners' Monitoring Program, were present and testified.

CLOSED MEETING:

Ms. Minton moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:07 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Dunevant. Additionally, Ms. Minton moved that Ms. Douglas, Ms. Willinger, Ms. Tamayo-Suijk and Mr. Rutkowski 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 3:38 P.M.

Ms. Cei 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.

Dr. Gleason 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. Minton moved that the Board of Nursing reprimand Ms. Dunevant and continue the indefinite suspension of her license to practice professional nursing in the Commonwealth of Virginia for a period of not less than two years. The motion was seconded and carried with five votes in favor of the motion. Ms. Cei 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 3:40 P.M.

RECONVENTION: The Board reconvened at 3:48 P.M.

FORMAL HEARINGS: **Aleshia White, CNA 1401-141337**
Mr. White did not appear.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Mr. Rutkowski was legal counsel for the Board. Lori Larsen, court reporter with Crane-Snead & Associates, Inc., recorded the proceedings.

Tonya James, Compliance Case Manager for the Board of Nursing was present and testified. Laura Pezzulo, Senior Investigator, Department of Health Professions testified via telephone.

CLOSED MEETING: Ms. Minton moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 4:07 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. White. Additionally, Ms. Minton moved that Ms. Douglas, Ms. Willinger, Ms. Tamayo-Suijk and Mr. Rutkowski 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 4:15 P.M.

Ms. Cei 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.

Dr. Gleason moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Jones. The motion was seconded and carried unanimously.

ACTION:

Dr. Thapa moved that the Board of Nursing reprimand Aleshia White and indefinitely suspend her certificate to practice as a nurse aide in the Commonwealth of Virginia. 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 4:17 P.M.

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

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
September 20, 2018**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:02 A.M. on September 20, 2018 in Board Room 1, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS PRESENT:

Louise Hershkowitz, CRNA, MSHA; President
Marie Gerardo, MS, RN, ANP-BC; Second Vice President
Margaret J. Friedenberg, Citizen Member
Trula Minton, MS, RN
Meenakshi Shah, BA, RN
Grace Thapa, DNP, FNP-BC, AE-C – **joined at 11:15 A.M.**

STAFF PRESENT:

Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Jane Elliott, PhD, RN; Discipline Staff
Sylvia Tamayo-Suijk, Discipline Team Coordinator

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel

ESTABLISHMENT OF A PANEL:

With five members of the Board present, a panel was established.

FORMAL HEARINGS:

Kari Jo Fleming, RN **0001-230047**
Ms. Fleming appeared and was represented by Nicholas Balland, her attorney.

Steve Bulger, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Denise Holt, court reporter with Crane-Snead & Associates, recorded the proceedings.

CLOSED MEETING:

Ms. Shah moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:26 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Fleming. Additionally, Ms. Shah moved that Dr. Hills, Dr. Elliott, Ms. Tamayo-Suijk, 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 10:59 A.M.

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

ACTION:

Ms. Gerardo moved that the Board of Nursing reprimand Kari Jo Fleming and reinstate her license to practice professional nursing in the Commonwealth of Virginia. 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. Thapa joined the meeting at 11:13 A.M.

FORMAL HEARINGS:

Gloria Ward, CNA **1401-151286**
Ms. Ward appeared.

Steve Bulger, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Denise Holt, court reporter with Crane-Snead & Associates, recorded the proceedings.

Marcella Luna, Investigator Supervisor, Department of Health Professions, was present and testified.

CLOSED MEETING:

Ms. Shah moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 12:07 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Ward. Additionally, Ms. Shah moved that Dr. Hills, Ms. Tamayo-Suijk 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 12:49 P.M.

Ms. Shah 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.

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

ACTION:

Mr. Gerardo moved that the Board of Nursing deny to reinstate the certification of Gloria Ward to practice as a nurse aide in the Commonwealth of Virginia. 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 12:51 P.M.

RECONVENED:

The Board reconvened at 1:35 P.M.

FORMAL HEARINGS:

Angell Carol Dunaway, RN

0001-154838

Ms. Dunaway appeared and was accompanied by Mark Eberly.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Denise Holt, court reporter with Crane-Snead & Associates, recorded the proceedings.

Hannah Lloyd, BGS, CSAC, testified via telephone. Tonya James, Compliance Case Manager for Board of Nursing, and Mark Eberly were present and testified.

CLOSED MEETING:

Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(15) of the *Code of Virginia* at 2:06 P.M., for the purpose of consideration and discussion of medical records of Ms. Dunaway that are excluded from the Freedom of Information Act by Virginia Code section 1 of 2.2-3705.5. Additionally, Ms. Gerardo moved that Dr. Elliott, Ms. Tamayo-Suijk, Ms. Mitchell, Ms. Lloyd, and Ms. Jones 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 2:24 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.

CLOSED MEETING: Ms. Shah moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:09 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Dunaway. Additionally, Ms. Gerardo moved that Dr. Elliott, Ms. Tamayo-Suijk, 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 3:53 P.M.

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

ACTION: Dr. Thapa moved that the Board of Nursing reprimand Angell Carol Dunaway and indefinitely suspend her license to practice professional nursing in the Commonwealth of Virginia until she meets all the requirements of the Board Order entered May 5, 2017. 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: **LaDonna A. Enoh, LPN** **0002-066429**
Ms. Enoh did not appear.

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

Margaret Starks, Senior Investigator, Department of Health Professions, was present and testified.

CLOSED MEETING: Ms. Shah moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 4:21 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Enoh. Additionally, Ms. Shah moved that Dr. Hills, Dr. Elliott, Ms. Tamayo-Suijk 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 4:27 P.M.

Ms. Shah 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.

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

ACTION: Mr. Gerardo moved that the Board of Nursing indefinitely suspend the license of LaDonna A. Enoh to practice practical nursing in the Commonwealth of Virginia until she can come to the Board and prove that she is safe to practice. 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 4:35 P.M.

Robin L. Hills, DNP, RN, WHNP
Deputy Executive Director for Advanced Practice

VIRGINIA BOARD OF NURSING
POSSIBLE SUMMARY SUSPENSION TELEPHONE CONFERENCE CALL
October 23, 2018

A possible summary suspension telephone conference call of the Virginia Board of Nursing was held October 23, 2018 at 12:00 P.M.

The Board of Nursing members participating in the meeting were:

Louise Hershkowitz, CRNA, MSHA; Chair
Laura F. Cei, BS, LPN, CCRP
Margaret Friedenberg, Citizen Member
A Tucker Gleason, PhD, Citizen Member

Michelle D. Hereford, MSHA, RN, FACHE
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Mark Monson, Citizen Member

Others participating in the meeting were:

Charis Mitchell, Assistant Attorney General, Board Counsel
James Schilessmann, Assistant Attorney General
Tammie Jones, Adjudication Specialist
Lana Jagadish, Adjudication Specialist
Grace Stewart, Adjudication Specialist
Jodi Power, RN, JD; Senior Deputy Executive Director
Robin Hills, RN, DNP, WHNP; Deputy Executive Director for Advanced Practice
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Patricia Dewey, RN, BSN; Discipline Case Manager
Huong Vu, Executive Assistant
Sylvia Tamayo-Suijk, Discipline Team Coordinator

The meeting was called to order by Ms. Hershkowitz. With eight members of the Board of Nursing participating, a quorum was established.

James Schilessmann, Assistant Attorney General presented evidence that the continued practice of nursing by Shawn Renee Persinger, RN 0001- 254005 may present a substantial danger to the health and safety of the public.

Mr. Monson moved to summarily suspend the nursing license of Shawn Renee Persinger pending a formal administrative hearing and to offer a consent order for indefinite suspension of her license in lieu of a formal hearing. The motion was seconded and carried unanimously.

The meeting was adjourned at 12:10 P.M.

Jodi Power, RN, JD
Senior Deputy Executive Director

Agency Subordinate Recommendation Tracking Trend Log - May 2006 to Present – Board of Nursing

Considered		Accepted		Modified*					Rejected					Final Outcome:** Difference from Recommendation				
Date	Total	Total	Total %	Total	Total %	# present	# ↑	# ↓	Total	Total %	# present	# Ref to FH	# Dis-missed	↑	↓	Same	Pending	N/A
Total to Date:	2921	2578	88.2%	252	8.6%				93	3.2%				71	77	92	2	
CY2018 to Date:	167	141	84.4%	22	13.2%	3	16	5	4	2.4%	0	4	0	3	8	5	N/A	
Nov-18																		
Sep-18	32	29	90.6%	2	6.3%	2	0	2	1	3.1%	0	1	0	1	0	1		
Jul-18	29	25	86.2%	4	13.8%	0	2	2	0		0	0	0	1	1	3		
May-18	21	15	71.9%	6	28.6%	1	5	0	0		0	0	0	1	1	0		
Mar-18	50	39	78.0%	8	16.0%	0	7	1	3	6.0%	0	3	0	0	2	1		
Jan-18	35	33	94.3%	2	5.7%	0	2	0	0	0.0%	0	0	0	0	4	0		
Annual Totals:																		
Total 2017	230	220	95.7%	8	3.5%	0	5	3	2	0.8%	0	2	0	2	4	6	N/A	
Total 2016	241	227	94.2%	9	3.7%	0	8	0	5	2.1%	2	4	0	4	8	2	N/A	
Total 2015	240	218	90.8%	14	5.8%	2	12	2	8	3.3%	3	6	1	9	6	5	N/A	
Total 2014	257	235	91.4%	17	6.6%	2	8	9	5	1.9%	1	3	2	3	3	7	N/A	
Total 2013	248	236	95.2%	10	4.0%				2	0.8%				3	6	2	N/A	
Total 2012	229	211	92.1%	15	6.6%				3	1.3%				4	6	9	N/A	
Total 2011	208	200	96.2%	6	2.9%				2	1.0%				4	1	12	N/A	
Total 2010	194	166	85.6%	21	10.8%				7	3.6%				7	9	9	N/A	
Total 2009	268	217	81.0%	40	14.9%				11	4.1%				11	6	20	N/A	
Total 2008	217	163	75.1%	29	13.4%				22	10.1%				11	11	3	N/A	
Total 2007	174	130	74.7%	30	17.2%				12	6.9%				8	7	4	N/A	
Total 2006	76	62	81.6%	6	7.9%				8	10.5%				2	2		N/A	

* Modified = Sanction changed in some way (does not include editorial changes to Findings of Fact or Conclusions of Law. ↑ = additional terms or more severe sanction. ↓ = lesser sanction or impose no sanction.

** Final Outcome Difference = Final Board action/ sanction after FH compared to original Agency Subordinate Recommendation that was modified (then appealed by respondent to FH) or was Rejected by Board (↔ referred to FH).

Virginia Department of Health Professions
Cash Balance
As of September 30, 2018

	Nursing
Board Cash Balance as June 30, 2018	10,401,356
YTD FY18 Revenue	2,861,635
Less: YTD FY18 Direct and Allocated Expenditures	<u>3,582,034</u> *
Board Cash Balance as September 30, 2018	<u><u>9,680,957</u></u>

* Includes \$14,128 deduction for Nurse Scholarship Fund

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 10100 - Nursing
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	474,755.00	1,549,050.00	1,074,295.00	30.65%
4002406	License & Renewal Fee	1,867,795.00	6,691,497.00	4,823,702.00	27.91%
4002407	Dup. License Certificate Fee	6,615.00	23,750.00	17,135.00	27.85%
4002408	Board Endorsement - In	17,850.00	64,790.00	46,940.00	27.55%
4002409	Board Endorsement - Out	6,835.00	7,560.00	725.00	90.41%
4002421	Monetary Penalty & Late Fees	76,109.00	188,750.00	112,641.00	40.32%
4002432	Misc. Fee (Bad Check Fee)	280.00	1,750.00	1,470.00	16.00%
	Total Fee Revenue	2,450,239.00	8,527,147.00	6,076,908.00	28.73%
4003000	Sales of Prop. & Commodities				
4003020	Misc. Sales-Dishonored Payments	490.00	-	(490.00)	0.00%
	Total Sales of Prop. & Commodities	490.00	-	(490.00)	0.00%
4009000	Other Revenue				
4009060	Miscellaneous Revenue	8,800.00	60,400.00	51,600.00	14.57%
	Total Other Revenue	8,800.00	60,400.00	51,600.00	14.57%
	Total Revenue	2,459,529.00	8,587,547.00	6,128,018.00	28.64%
5011110	Employer Retirement Contrib.				
5011120	Fed Old-Age Ins- Sal St Emp	41,754.04	156,851.00	115,096.96	26.62%
5011130	Fed Old-Age Ins- Wage Earners	1,819.00	31,899.00	30,080.00	5.70%
5011140	Group Insurance	6,772.30	26,860.00	20,087.70	25.21%
5011150	Medical/Hospitalization Ins.	108,556.00	490,776.00	382,220.00	22.12%
5011160	Retiree Medical/Hospitalizatn	6,056.19	23,989.00	17,932.81	25.25%
5011170	Long term Disability Ins	3,035.24	12,712.00	9,676.76	23.88%
5011190	Employer Retirement Contrib	2,727.06	9,350.00	6,622.94	29.17%
	Total Employee Benefits	233,097.57	1,020,293.00	787,195.43	22.85%
5011200	Salaries				
5011220	Salaries, Appointed Officials	32,083.31	-	(32,083.31)	0.00%
5011230	Salaries, Classified	464,960.85	2,050,344.00	1,585,383.15	22.68%
5011250	Salaries, Overtime	5,299.33	-	(5,299.33)	0.00%
	Total Salaries	502,343.49	2,050,344.00	1,548,000.51	24.50%
5011300	Special Payments				
5011380	Deferred Compnstrn Match Pmts	2,190.00	16,320.00	14,130.00	13.42%
	Total Special Payments	2,190.00	16,320.00	14,130.00	13.42%
5011400	Wages				
5011410	Wages, General	49,347.51	391,971.00	342,623.49	12.59%
	Total Wages	49,347.51	391,971.00	342,623.49	12.59%
5011530	Short-trm Disability Benefits				
	Total Disability Benefits	26,143.73	-	(26,143.73)	0.00%
5011600	Terminatn Personal Svce Costs				
5011620	Salaries, Annual Leave Balanc	14,918.40	-	(14,918.40)	0.00%
5011640	Salaries, Cmp Leave Balances	177.60	-	(177.60)	0.00%
5011660	Defined Contribution Match - Hy	2,894.01	-	(2,894.01)	0.00%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 10100 - Nursing
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
	Total Terminatn Personal Svce Costs	17,990.01	-	(17,990.01)	0.00%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	831,112.31	3,478,928.00	2,647,815.69	23.89%
5012000	Contractual Svcs				
5012100	Communication Services				
5012110	Express Services	339.05	4,395.00	4,055.95	7.71%
5012120	Outbound Freight Services	-	10.00	10.00	0.00%
5012130	Messenger Services	634.78	-	(634.78)	0.00%
5012140	Postal Services	38,199.48	85,633.00	47,433.52	44.61%
5012150	Printing Services	1,614.16	1,322.00	(292.16)	122.10%
5012160	Telecommunications Svcs (VITA)	4,501.67	21,910.00	17,408.33	20.55%
5012170	Telecomm. Svcs (Non-State)	157.50	-	(157.50)	0.00%
5012190	Inbound Freight Services	65.84	17.00	(48.84)	387.29%
	Total Communication Services	45,512.48	113,287.00	67,774.52	40.17%
5012200	Employee Development Services				
5012210	Organization Memberships	6,000.00	8,764.00	2,764.00	68.46%
5012220	Publication Subscriptions	-	120.00	120.00	0.00%
5012240	Employee Trainng/Workshop/Conf	140.00	482.00	342.00	29.05%
	Total Employee Development Services	6,140.00	9,366.00	3,226.00	65.56%
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	4,232.00	4,232.00	0.00%
	Total Health Services	-	4,232.00	4,232.00	0.00%
5012400	Mgmnt and Informational Svcs				
5012420	Fiscal Services	34,445.26	197,340.00	162,894.74	17.45%
5012440	Management Services	686.82	370.00	(316.82)	185.63%
5012460	Public Infrmtnl & Relatn Svcs	-	49.00	49.00	0.00%
5012470	Legal Services	1,755.00	5,616.00	3,861.00	31.25%
	Total Mgmnt and Informational Svcs	36,887.08	203,375.00	166,487.92	18.14%
5012500	Repair and Maintenance Svcs				
5012530	Equipment Repair & Maint Srvc	-	3,001.00	3,001.00	0.00%
5012560	Mechanical Repair & Maint Srvc	-	369.00	369.00	0.00%
	Total Repair and Maintenance Svcs	-	3,370.00	3,370.00	0.00%
5012600	Support Services				
5012630	Clerical Services	65,088.30	317,088.00	251,999.70	20.53%
5012640	Food & Dietary Services	2,567.64	-	(2,567.64)	0.00%
5012660	Manual Labor Services	15,931.68	38,508.00	22,576.32	41.37%
5012670	Production Services	50,634.84	158,515.00	107,880.16	31.94%
5012680	Skilled Services	247,326.13	1,164,774.00	917,447.87	21.23%
	Total Support Services	381,548.59	1,678,885.00	1,297,336.41	22.73%
5012700	Technical Services				
5012790	Computer Software Dvp Svcs	29,180.53	31,000.00	1,819.47	94.13%
	Total Technical Services	29,180.53	31,000.00	1,819.47	94.13%
5012800	Transportation Services				

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 10100 - Nursing
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012820	Travel, Personal Vehicle	393.89	5,260.00	4,866.11	7.49%
5012830	Travel, Public Carriers	-	1.00	1.00	0.00%
5012840	Travel, State Vehicles	-	2,454.00	2,454.00	0.00%
5012850	Travel, Subsistence & Lodging	169.17	6,635.00	6,465.83	2.55%
5012880	Trvl, Meal Reimb- Not Rprtbl	91.50	3,597.00	3,505.50	2.54%
	Total Transportation Services	654.56	17,947.00	17,292.44	3.65%
	Total Contractual Svcs	499,923.24	2,061,462.00	1,561,538.76	24.25%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	7,864.59	11,696.00	3,831.41	67.24%
5013130	Stationery and Forms	-	3,790.00	3,790.00	0.00%
	Total Administrative Supplies	7,864.59	15,486.00	7,621.41	50.79%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	99.00	99.00	0.00%
	Total Manufctrng and Merch Supplies	-	99.00	99.00	0.00%
5013500	Repair and Maint. Supplies				
5013520	Custodial Repair & Maint Matrl	-	29.00	29.00	0.00%
	Total Repair and Maint. Supplies	-	29.00	29.00	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	258.12	408.00	149.88	63.26%
5013630	Food Service Supplies	106.44	1,108.00	1,001.56	9.61%
5013640	Laundry and Linen Supplies	-	22.00	22.00	0.00%
	Total Residential Supplies	364.56	1,538.00	1,173.44	23.70%
5013700	Specific Use Supplies				
5013730	Computer Operating Supplies	88.65	182.00	93.35	48.71%
	Total Specific Use Supplies	88.65	182.00	93.35	48.71%
	Total Supplies And Materials	8,317.80	17,334.00	9,016.20	47.99%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015120	Automobile Liability	-	163.00	163.00	0.00%
5015160	Property Insurance	598.77	504.00	(94.77)	118.80%
	Total Insurance-Fixed Assets	598.77	667.00	68.23	89.77%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	2,126.67	9,014.00	6,887.33	23.59%
5015350	Building Rentals	138.60	-	(138.60)	0.00%
5015360	Land Rentals	-	275.00	275.00	0.00%
5015390	Building Rentals - Non State	40,306.42	167,873.00	127,566.58	24.01%
	Total Operating Lease Payments	42,571.69	177,162.00	134,590.31	24.03%
5015400	Service Charges				
5015460	SPCC And EEI Check Fees	-	5.00	5.00	0.00%
	Total Service Charges	-	5.00	5.00	0.00%
5015500	Insurance-Operations				

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 10100 - Nursing
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5015510	General Liability Insurance	2,149.16	1,897.00	(252.16)	113.29%
5015540	Surety Bonds	126.81	112.00	(14.81)	113.22%
	Total Insurance-Operations	2,275.97	2,009.00	(266.97)	113.29%
	Total Continuous Charges	45,446.43	179,843.00	134,396.57	25.27%
5022000	Equipment				
5022100	Computer Hrdware & Sftware				
5022170	Other Computer Equipment	1,646.00	-	(1,646.00)	0.00%
	Total Computer Hrdware & Sftware	1,646.00	-	(1,646.00)	0.00%
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	1,123.00	1,123.00	0.00%
	Total Educational & Cultural Equip	-	1,123.00	1,123.00	0.00%
5022300	Electrnc & Photographic Equip				
5022380	Electronic & Photo Equip Impr	-	1,666.00	1,666.00	0.00%
	Total Electrnc & Photographic Equip	-	1,666.00	1,666.00	0.00%
5022600	Office Equipment				
5022610	Office Appurtenances	-	202.00	202.00	0.00%
5022620	Office Furniture	3,072.02	26,097.00	23,024.98	11.77%
5022630	Office Incidentals	-	75.00	75.00	0.00%
	Total Office Equipment	3,072.02	26,374.00	23,301.98	11.65%
5022700	Specific Use Equipment				
5022710	Household Equipment	269.95	133.00	(136.95)	202.97%
	Total Specific Use Equipment	269.95	133.00	(136.95)	202.97%
	Total Equipment	4,987.97	29,296.00	24,308.03	17.03%
	Total Expenditures	1,389,787.75	5,766,863.00	4,377,075.25	24.10%
	Allocated Expenditures				
20400	Nursing / Nurse Aid	28,959.89	99,619.71	70,659.82	29.07%
30100	Data Center	486,538.67	1,755,029.93	1,268,491.27	27.72%
30200	Human Resources	14,384.47	179,856.85	165,472.37	8.00%
30300	Finance	178,454.66	838,562.49	660,107.83	21.28%
30400	Director's Office	86,975.57	320,509.34	233,533.77	27.14%
30500	Enforcement	572,368.11	2,467,377.08	1,895,008.97	23.20%
30600	Administrative Proceedings	165,699.98	671,720.15	506,020.17	24.67%
30700	Impaired Practitioners	20,106.41	103,065.97	82,959.55	19.51%
30800	Attorney General	43,176.83	144,643.41	101,466.58	29.85%
30900	Board of Health Professions	63,434.94	266,543.69	203,108.75	23.80%
31100	Maintenance and Repairs	-	25,214.07	25,214.07	0.00%
31300	Emp. Recognition Program	31.13	4,130.59	4,099.45	0.75%
31400	Conference Center	412.58	1,993.25	1,580.67	20.70%
31500	Pgm Devlpmnt & Implmentn	61,912.74	193,512.57	131,599.83	31.99%
	Total Allocated Expenditures	1,722,455.98	7,071,779.09	5,349,323.11	24.36%
	Net Revenue in Excess (Shortfall) of Expenditures	\$ (652,714.73)	\$ (4,251,095.09)	\$ (3,598,380.36)	15.35%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11200 - Certified Nurse Aides
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	450.00	300.00	(150.00)	150.00%
4002406	License & Renewal Fee	308,800.00	1,174,080.00	865,280.00	26.30%
4002421	Monetary Penalty & Late Fees	-	330.00	330.00	0.00%
4002432	Misc. Fee (Bad Check Fee)	140.00	700.00	560.00	20.00%
	Total Fee Revenue	309,390.00	1,175,410.00	866,020.00	26.32%
4003000	Sales of Prop. & Commodities				
4003007	Sales of Goods/Svces to State	92,715.68	541,000.00	448,284.32	17.14%
	Total Sales of Prop. & Commodities	92,715.68	541,000.00	448,284.32	17.14%
4009000	Other Revenue				
	Total Revenue	402,105.68	1,716,410.00	1,314,304.32	23.43%
5011110	Employer Retirement Contrib.	2,834.70	10,057.00	7,222.30	28.19%
5011120	Fed Old-Age Ins- Sal St Emp	2,171.67	5,690.00	3,518.33	38.17%
5011130	Fed Old-Age Ins- Wage Earners	787.16	5,223.00	4,435.84	15.07%
5011140	Group Insurance	284.20	974.00	689.80	29.18%
5011150	Medical/Hospitalization Ins.	6,651.00	22,992.00	16,341.00	28.93%
5011160	Retiree Medical/Hospitalizatn	254.13	870.00	615.87	29.21%
5011170	Long term Disability Ins	135.78	461.00	325.22	29.45%
	Total Employee Benefits	13,118.64	46,267.00	33,148.36	28.35%
5011200	Salaries				
5011230	Salaries, Classified	21,021.52	74,383.00	53,361.48	28.26%
5011250	Salaries, Overtime	1,121.88	-	(1,121.88)	0.00%
	Total Salaries	22,143.40	74,383.00	52,239.60	29.77%
5011300	Special Payments				
5011380	Deferred Compnstn Match Pmts	140.00	960.00	820.00	14.58%
	Total Special Payments	140.00	960.00	820.00	14.58%
5011400	Wages				
5011410	Wages, General	18,157.66	68,269.00	50,111.34	26.60%
	Total Wages	18,157.66	68,269.00	50,111.34	26.60%
5011600	Terminatn Personal Svce Costs				
5011660	Defined Contribution Match - Hy	97.51	-	(97.51)	0.00%
	Total Terminatn Personal Svce Costs	97.51	-	(97.51)	0.00%
5011930	Turnover/Vacancy Benefits				
	Total Personal Services	53,657.21	189,879.00	136,221.79	28.26%
5012000	Contractual Svs				
5012100	Communication Services				
5012140	Postal Services	13,876.37	32,117.00	18,240.63	43.21%
5012150	Printing Services	221.69	276.00	54.31	80.32%
5012160	Telecommunications Svcs (VITA)	105.12	2,500.00	2,394.88	4.20%
5012190	Inbound Freight Services	4.75	-	(4.75)	0.00%
	Total Communication Services	14,207.93	34,893.00	20,685.07	40.72%
5012300	Health Services				

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11200 - Certified Nurse Aides
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012360	X-ray and Laboratory Services	-	125.00	125.00	0.00%
	Total Health Services	-	125.00	125.00	0.00%
5012400	Mgmnt and Informational Svcs	-			
5012420	Fiscal Services	6,768.04	24,920.00	18,151.96	27.16%
5012440	Management Services	94.33	530.00	435.67	17.80%
5012460	Public Infrmtnl & Relatn Svcs	-	10.00	10.00	0.00%
	Total Mgmnt and Informational Svcs	6,862.37	25,460.00	18,597.63	26.95%
5012500	Repair and Maintenance Svcs				
5012560	Mechanical Repair & Maint Srvc	-	72.00	72.00	0.00%
	Total Repair and Maintenance Svcs	-	72.00	72.00	0.00%
5012600	Support Services				
5012660	Manual Labor Services	505.82	2,454.00	1,948.18	20.61%
5012670	Production Services	2,653.29	10,300.00	7,646.71	25.76%
5012680	Skilled Services	6,092.59	48,303.00	42,210.41	12.61%
	Total Support Services	9,251.70	61,057.00	51,805.30	15.15%
5012700	Technical Services				
5012780	VITA InT Int Cost Goods&Svs	2,435.63	-	(2,435.63)	0.00%
	Total Technical Services	2,435.63	-	(2,435.63)	0.00%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	759.17	6,893.00	6,133.83	11.01%
5012840	Travel, State Vehicles	29.26	310.00	280.74	9.44%
5012850	Travel, Subsistence & Lodging	1.05	912.00	910.95	0.12%
5012880	Trvl, Meal Reimb- Not Rprtbl	-	528.00	528.00	0.00%
	Total Transportation Services	789.48	8,643.00	7,853.52	9.13%
	Total Contractual Svcs	33,547.11	130,250.00	96,702.89	25.76%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	599.91	1,092.00	492.09	54.94%
5013130	Stationery and Forms	-	1,203.00	1,203.00	0.00%
	Total Administrative Supplies	599.91	2,295.00	1,695.09	26.14%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	20.00	20.00	0.00%
	Total Manufctrng and Merch Supplies	-	20.00	20.00	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	-	80.00	80.00	0.00%
5013630	Food Service Supplies	-	226.00	226.00	0.00%
	Total Residential Supplies	-	306.00	306.00	0.00%
	Total Supplies And Materials	599.91	2,621.00	2,021.09	22.89%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015160	Property Insurance	105.98	106.00	0.02	99.98%
	Total Insurance-Fixed Assets	105.98	106.00	0.02	99.98%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11200 - Certified Nurse Aides
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5015300	Operating Lease Payments				
5015340	Equipment Rentals	3.97	-	(3.97)	0.00%
5015350	Building Rentals	15.60	-	(15.60)	0.00%
5015360	Land Rentals	-	50.00	50.00	0.00%
5015390	Building Rentals - Non State	7,794.37	29,916.00	22,121.63	26.05%
	Total Operating Lease Payments	7,813.94	29,966.00	22,152.06	26.08%
5015500	Insurance-Operations				
5015510	General Liability Insurance	380.39	399.00	18.61	95.34%
5015540	Surety Bonds	22.45	24.00	1.55	93.54%
	Total Insurance-Operations	402.84	423.00	20.16	95.23%
	Total Continuous Charges	8,322.76	30,495.00	22,172.24	27.29%
5022000	Equipment				
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	162.00	162.00	0.00%
	Total Educational & Cultural Equip	-	162.00	162.00	0.00%
5022600	Office Equipment				
5022680	Office Equipment Improvements	-	4.00	4.00	0.00%
	Total Office Equipment	-	4.00	4.00	0.00%
	Total Equipment	-	166.00	166.00	0.00%
	Total Expenditures	96,126.99	353,411.00	257,284.01	27.20%
	Allocated Expenditures				
20400	Nursing / Nurse Aid	12,147.23	32,465.29	20,318.06	37.42%
30100	Data Center	64,178.00	235,815.66	171,637.65	27.22%
30200	Human Resources	1,195.17	14,211.67	13,016.50	8.41%
30300	Finance	40,140.09	186,490.36	146,350.27	21.52%
30400	Director's Office	19,575.88	71,279.01	51,703.13	27.46%
30500	Enforcement	159,871.26	653,548.38	493,677.12	24.46%
30600	Administrative Proceedings	33,308.59	194,419.56	161,110.97	17.13%
30700	Impaired Practitioners	493.69	2,139.57	1,645.88	23.07%
30800	Attorney General	347.50	1,696.58	1,349.08	20.48%
30900	Board of Health Professions	14,262.10	59,277.43	45,015.33	24.06%
31100	Maintenance and Repairs	-	4,493.30	4,493.30	0.00%
31300	Emp. Recognition Program	2.63	326.38	323.75	0.81%
31400	Conference Center	73.52	355.21	281.68	20.70%
31500	Pgm Devlpmnt & Implmntn	13,939.17	43,035.83	29,096.65	32.39%
	Total Allocated Expenditures	359,534.86	1,499,554.22	1,140,019.36	23.98%
	Net Revenue in Excess (Shortfall) of Expenditures	\$ (53,556.17)	\$ (136,555.22)	\$ (82,999.05)	39.22%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 20400 - Nursing / Nurse Aide
For the Period Beginning July 1, 2018 and Ending September 30, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5011120	Fed Old-Age Ins- Sal St Emp	841.96	-	(841.96)	0.00%
5011130	Fed Old-Age Ins- Wage Earners	524.30	3,095.00	2,570.70	16.94%
	Total Employee Benefits	1,366.26	3,095.00	1,728.74	44.14%
5011300	Special Payments				
5011340	Specified Per Diem Payment	3,800.00	24,550.00	20,750.00	15.48%
	Total Special Payments	3,800.00	24,550.00	20,750.00	15.48%
5011400	Wages				
5011410	Wages, General	17,859.58	40,448.00	22,588.42	44.15%
	Total Wages	17,859.58	40,448.00	22,588.42	44.15%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	23,025.84	68,093.00	45,067.16	33.82%
5012000	Contractual Svs				
5012400	Mgmnt and Informational Svcs				
5012470	Legal Services	-	4,110.00	4,110.00	0.00%
	Total Mgmnt and Informational Svcs	-	4,110.00	4,110.00	0.00%
5012600	Support Services				
5012640	Food & Dietary Services	-	10,598.00	10,598.00	0.00%
5012680	Skilled Services	5,400.00	10,000.00	4,600.00	54.00%
	Total Support Services	5,400.00	20,598.00	15,198.00	26.22%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	5,123.59	16,757.00	11,633.41	30.58%
5012830	Travel, Public Carriers	-	39.00	39.00	0.00%
5012850	Travel, Subsistence & Lodging	5,004.44	13,828.00	8,823.56	36.19%
5012880	Trvl, Meal Reimb- Not Rprtbl	2,553.25	6,546.00	3,992.75	39.00%
	Total Transportation Services	12,681.28	37,170.00	24,488.72	34.12%
	Total Contractual Svs	18,081.28	61,878.00	43,796.72	29.22%
5013000	Supplies And Materials				
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	-	14.00	14.00	0.00%
	Total Residential Supplies	-	14.00	14.00	0.00%
	Total Supplies And Materials	-	14.00	14.00	0.00%
5022000	Equipment				
5022600	Office Equipment				
5022620	Office Furniture	-	2,100.00	2,100.00	0.00%
	Total Office Equipment	-	2,100.00	2,100.00	0.00%
	Total Equipment	-	2,100.00	2,100.00	0.00%
	Total Expenditures	41,107.12	132,085.00	90,977.88	31.12%

2018 Monthly Tracking Log

License Count

Nursing	Dec-17	Jan-18	Feb - 18	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Total
Pres Auth	7,141	7,160	7,242	7,292	7,307	7,335	7,396	7,491	7,584	7,676	7,759			
Massage Therapy	8,521	8,538	8,538	8,544	8,556	8,584	8,653	8,676	8,715	8,745	8,725			
Medication Aide	6,226	6,242	6,325	6,364	6,392	6,375	6,455	6,466	6,464	6,519	6,490			
Clinical Nurse Spec	431	430	429	428	428	424	420	421	421	420	420			
Nurse Practitioner	10,159	10,210	10,335	10,388	10,390	10,418	10,533	10,646	10,721	10,862	10,964			
Practical Nurse	29,014	28,938	28,981	28,926	28,872	28,869	28,925	28,970	28,980	28,905	28,848			
Registered Nurse	107,676	107,791	108,274	108,178	108,077	107,859	108,539	109,407	109,645	109,890	109,586			
Total for Nursing	169,168	169,309	170,124	170,120	170,022	169,864	170,921	172,077	172,530	173,017	172,792	0	0	
Nurse Aide	52,151	51,560	52,067	52,218	52,447	52,015	52,008	52,123	52,128	52,382	52,198			
Advanced Nurse Aide	60	57	55	55	54	55	55	52	50	52	53			
Total for Nurse Aide	52,211	51,617	52,122	52,273	52,501	52,070	52,063	52,175	52,178	52,434	52,251			
Total	221,379	220,926	222,246	222,393	222,523	221,934	222,984	224,252	224,708	225,451	225,043	0	0	

Open Cases Count

Nursing	1133	1143	1169	1204		1247	1184	1071	1137	1164	1154			
Nurse Aide	450	400	330	278		249	268	259	259	274	283			
Total	1,583	1,543	1,499	1,482	0	1,496	1,452	1,330	1,396	1,438	1,437	0	0	

Rec'd RN	59	59	78	75	64	56	75	63	84	66	81			701
Rec'd PN	34	34	30	49	34	32	34	46	53	46	64			422
Rec'd NP, AP, CNS	27	24	29	37	26	19	27	27	30	20	18			257
Rec'd LMT	6	6	4	6	3	6	4	3	6	4	3			45
Rec'd RMA	4	8	7	16	11	9	12	16	8	8	6			101
Rec'd Edu Program	1	0	1	2	0	3	3	3	2	2	0			16
Total Rec'd Nursing	131	131	149	185	138	125	155	158	183	146	172	0	0	1,542
Closed RN	75	53	44	78	40	60	104	148	66	53	84			730
Closed PN	38	29	33	43	21	39	54	76	39	44	44			422
Closed NP, AP, CNS	20	21	11	42	7	17	42	64	25	8	36			273
Closed LMT	1	1	7	7	7	6	5	3	3	2	2			43
Closed RMA	8	8	14	12	6	7	13	19	11	19	5			114
Closed Edu Program	6	3	0	0	2	4	3	1	0	1	0			14
Total Closed Nursing	148	115	109	182	83	133	221	311	144	127	171	0	0	1,596
Nurse Aide														
Received	31	22	47	36	33	28	53	50	51	46	49			415
Rec'd Edu Program	0	0	0	0	0	0	0	0	0	0	1			1
Total Rec'd CNA	31	22	47	36	33	28	53	50	51	46	50	0	0	416
Closed	33	49	143	83	65	64	30	64	57	42	31			628
Closed Edu Program	0	3	0	1	0	0	0	0	0	0	0			4
Total Closed CNA	33	52	143	84	65	64	30	64	57	42	31	0	0	632

**HPMP Quarterly Report
July - September 2018**

Board	License	Admissions ¹		Stays ²	Comp ³	Vacated Stays ⁴		Dismissals ⁵				
		Req	Vol			Vac Only	Vac & Dism	N/C	Inel	Dism Resig	Resig	Death
Nursing	LNP	1	2		2	1		1				
	LPN	5			3	1		3		1		
	RN	13	4		7	1		7				
	CNA											
	Massage Ther											
Nursing Total		19	6	0	12	3	0	11	0	1	0	0
	DC											
	DO		1		1			1				
	DPM											
	Intern/Resident	2										
	LAT											
	LBA											
Medicine	Lic Rad Tech											
	MD	5	4		5			1				
	OTA	1								1		
	PA											
	RT						1	1				
Medicine Total		8	5	0	6	0	1	3	1	0	0	0
Pharmacy	Pharmacist			1								
	RPh											
	Pharm Tech	1	1								1	
Pharmacy Totals		1	1	1	0	0	0	0	0	0	1	0
Dentistry	DDS		1									
	DMD											
	RDH											
Dentistry Total		0	1	0	0	0	0	0	0	0	0	0
Social Work	LCSW				1							
Psychology	LCP				1							
Counseling	LPC											
Funeral Directors & Embalmers	FSL											
Optometry	OD											
Veterinary Med	DVM											
Audiology/Speech Pathology	SLP											
Physical Therapy	PT											
	PTA											
Total		0	0	0	0	0	0	0	0	0	0	0
TOTALS		28	13	1	20	3	1	14	1	1	1	0

Admissions¹: Req=Required (Board Referred, Board Ordered, Investigation); Vol=Voluntary (No known DHP involvement at time of intake)

Stays²: Stays of Disciplinary Action Granted

Comp³: Successful Completions

Vacated Stays⁴: Vac Only=Vacated Stay Only; Vac & Dism=Vacated Stay & Dismissal

Dismissals⁵: N/C=Dismissed Non-Compliant; Inel=Dismissed Ineligible; Dism Resig=Dismissed due to Resignation; Resig=Resignation

Virginia Board of Nursing

Executive Director Report

November 13, 2018

Meetings/Speaking Engagements

- Board staff received a large volume of calls related to nurse practitioner autonomous practice now that the Board has voted to adopt the regulations. An email communication went out to all nurse practitioners the week of September 24, 2018.
- Jay Douglas, Executive Director for Virginia Board of Nursing, worked with Diane Power, DHP Communication Director, regarding an out-of-state FOIA request by Reuters News Service.
- Jay Douglas, Executive Director for Virginia Board of Nursing, presented PowerPoint presentation regarding Trends in Nursing Regulations, Practice and Education from the Board of Nursing Perspective to the VDH Public Health Nurse Management meeting on September 27, 2018. Among of the issues discussed, VDH Public Health Nursing Director informed Ms. Douglas of some challenges VDH Public Health Department was having in preparing for implementation of HB793 regard nurse practitioners and autonomous practice.
- Jay Douglas, Executive Director, and Robin Hills, Deputy Executive Director for Advanced Practice, for the Virginia Board of Nursing, met with representatives from the VA Chapter of the Association of Clinical Nurse Specialists on October 9, 2018. The Representatives were seeking technical advice and informing staff that they may submit a petition for rule making related to the practice of clinical nurse specialists.
- Jay Douglas, Executive Director for the Virginia Board of Nursing, attended the NCSBN Board of Directors meeting on October 15-16, 2018. Ms. Douglas serves as the Area III Director for Virginia and surrounding states. The focus of the meeting was the development of a strategic plan. Information was obtained regarding future changes to the NCLEX exam, the APRN Compact and NCSBN's research regarding scope of practice of the registered nurse.
- Jay Douglas, Executive Director for the Virginia Board of Nursing, attended the NCSBN 2018 International Nurse Regulator Collaborative Symposium on October 24-25, 2018 in Chicago. Topics of discussion included International Regulatory issues that affect licensure of the foreign applicants and global approach to disciplinary caseloads focusing on assessment of risk and harm.
- **National Council of State Boards of Nursing (NCSBN) Education Consultant conference call** - Dr. Paula Saxby, Deputy Executive Director and Beth Yates, Nursing and Nurse Aide Education Coordinator for the Virginia Board of Nursing participated in the above call on October 25, 2018. Dr. Nancy Spector (NCSBN staff) presented an overview of the enhancements and updates to the NCSBN website, focusing on education resources. This information will be shared with the program directors of nursing education programs in Virginia.
- Board of Nursing provided the current Certified Nurse Aide (CNA) Registry listing as requested by Reuters News Service on October 9, 2018.
- Virginia Board of Nursing responded to FOIA request by Gateway Media regarding current licensure database for Certified Nurse Midwives (CNM) and disciplinary cases for CNM's for the last ten years.

Virginia Board of Nursing
CORE Committee Meeting
September 18, 2018

Time and Place: The meeting of the Board of Nursing CORE Committee was convened at 3:30 P.M. on September 18, 2018 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia 23233.

Board Members Present: Trula Minton, MS, RN, Chairperson
Ethyn McQueen-Gibson, DNP, MSN, RN, BC
Peggy Friedenber, Citizen Member

Staff Members Present: Charlette Ridout, RN, MS, CNE, Deputy Executive Director

Ms. Minton welcomed Ms. Friedenber to the committee.

Ms. Minton reviewed the purpose of the committee. She would like for the committee to not only provide a summary of data but would like the committee to work on establishing recommendations that can result in positive change. The committee was asked to review the 2016 summary of reports for discipline and licensure and develop recommendations. Each committee member should email recommendations to Charlette Ridout by October 9, 2018.

The 2016 Education Report summary and recommendations need to be finalized. Ms. Minton will compile the education summary report and recommendations. Ms. Ridout will send Ms. Minton the points of pride and summary previously completed by Dr. Ross.

The 2016 Practice Report was not included on the original list of CORE reports to be reviewed by the committee. A copy of the 2016 Practice Report has been requested from NCSBN. Once received, Ms. Minton will review the practice report and make the determination if the committee will complete a summary and recommendations for the 2016 data or if the committee should wait until the 2018 practice report is available.

Ms. Douglas joined the meeting and reviewed the questions included in the 2018 CORE Survey with the committee.

Ms. Minton encouraged committee members to read more about CORE and the performance management system on NCSBN PASSPORT. Ms. Minton reviewed a handout, which

Virginia Board of Nursing
CORE Committee Meeting
September 18, 2018

highlighted some changes that other Boards have implemented based on data obtained from the CORE reports. Ms. Ridout will ask Ann Tiller to contact each of the committee members to provide information regarding passwords to log into NCSBN PASSPORT.

The committee will meet again on November 13, 2018 to finalize the education summary and recommendations and to finalize recommendations for licensure and discipline. The committee is expected to present the Education Summary and Recommendations as well as the recommendations for discipline and licensure to the Board at the January 2019 business meeting.

Next meeting: November 13, 2018

The meeting was adjourned at 4:50 P.M.

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
BUSINESS MEETING MINUTES
October 10, 2018**

- TIME AND PLACE:** The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 10:00 A.M., October 10, 2018 in Board Room 2, 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
Joyce A. Hahn, PhD, RN. NEA-BC, FNAP
Kevin O'Connor, MD
Kenneth Walker, MD
- MEMBERS ABSENT:** Lori Conklin, MD
- ADVISORY COMMITTEE MEMBERS PRESENT:** Kevin E. Brigle, RN, NP
Mark Coles, RN, BA, MSN, NP-C
Wendy Dotson, CNM, MSN
Stuart F. Mackler, MD
Janet L. Setnor, CRNA
- STAFF PRESENT:** Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director; Board of Nursing
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice; Board of Nursing
Stephanie Willinger; Deputy Executive Director for Licensing; Board of Nursing
Huong Vu, Executive Assistant; Board of Nursing
- OTHERS PRESENT:** Erin Barrett, Assistant Attorney General; Board Counsel
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
William L. Harp, MD, Executive Director; Board of Medicine
- IN THE AUDIENCE:** Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Mary Duggan, American Association of Nurse Practitioners (AANP)
Tyler Cox, Medial Society of Virginia (MSV)
Gerald Canaan, II, Esq.
Michael Goodman, Esq.
Pat Dewey, Board of Nursing Discipline Case Manager
Joseph Corley, Board of Nursing Licensing Staff
- INTRODUCTIONS:** Committee members, Advisory Committee members and staff members introduced themselves.
- ESTABLISHMENT OF A QUORUM:** Ms. Hershkowitz called the meeting to order and established that a quorum was present.

Virginia Board of Nursing
Committee of the Joint Boards of Nursing and Medicine Minutes
October 10, 2018

- ANNOUNCEMENT: Ms. Douglas noted the following announcement:
- Joseph Corley has accepted the Nurse Practitioner Licensing Application Compliance Specialist position. Today is his first day.
 - Pat Dewey has accepted the Discipline Case Manager RN for the Nurse Aide, Medication Aide and Massage Therapy Programs position. Ms. Dewey was transferred from Enforcement Division.
 - Rebecca Poston, PhD, Rn, CPNP, former Board of Nursing member, has accepted the P-14 Agency Subordinate/Probable Cause Review position.
- REVIEW OF MINUTES: The minutes of April 11, 2018 Business Meeting and Formal Hearing, and the May 17, 2018 Regulatory Advisory Ad Hoc Committee Meeting were reviewed. Ms. Gerardo moved to accept all of the minutes as presented. The motion was seconded and passed unanimously.
- PUBLIC COMMENT: There was no public comment received.
- DIALOGUE WITH AGENCY DIRECTOR: Dr. Brown or Dr. Allison-Bryan were not available to attend the meeting, there was no report provided.
- OLD BUSINESS: **Regulatory Update:**
Ms. Yeatts provided the chart of regulatory actions as of October 10, 2018 in place of the chart provided in the Agenda noting the following:
- The Emergency Action on Regulations for Autonomous Practice for Certain Nurse Practitioners (HB793) has been adopted by Board of Nursing and Board of Medicine with one amendment relating to the definition of the equivalent of five years of full-time clinical practice. The regulations are currently at the Department of Planning Budget for review.
 - The Proposed Regulations for Performance of and for Supervision and Direction of Laser Hair Removal – HB2119 was passed by the 2017 General Assembly and was effective as of July 1, 2017. The regulations for nurse practitioners (18VAC90-30) will need to be amended to define “direction and supervision.” Board of Nursing and Medicine adopted the proposed regulations as recommended. The comment period for the proposed regulations will begin on October 29, 2018 and end on December 28, 2018. The public hearing for the proposed regulations will be conducted during the Board of Nursing business meeting on November 13, 2018.
 - The Proposed Regulations to Eliminate Separate License for Prescriptive Authority (18VAC90-40) was adopted by the Board of Nursing on September 18, 2018. The Board of Medicine will act on it on October 18, 2018.

- The Emergency Regulations on Prescribing of Opioids for Nurse Practitioners (18VAC90-30 and 40) will expired on November 7, 2018 and the Board cannot adopt final regulations for at least 15 days after the close of comment period on September 9, 2018. A request was filed to extend the emergency regulations for another six month to allow completion of the promulgation of replacement regulations. The extension was granted and the new expiration date is May 6, 2019. Two comments were received regarding the final proposed regulations as provided in the handout. Ms. Yeatts noted the following amendments to the final proposed regulations:
 - ❖ Evaluation of the patient for acute pain shall exclude sickle cell patients.
 - ❖ Tramadol is defined as an atypical opioid.
 - ❖ The urine drug screens will be conducted randomly at the discretion of the practitioner at least once a year.
 - ❖ Nurse practitioners who have obtained a SAMHSA waiver and have been authorized by the Boards for autonomous practice can prescribe buprenorphine for opioid addiction without practice agreement.

Ms. Yeatts said that the final regulations are presented for the Committee's action. Ms. Yeatts added that the Board of Medicine will consider the final regulations on October 18, 2018 and the Board of Nursing will consider on November 13, 2018.

Dr. O'Connor moved to recommend the final proposed regulations to the Boards of Medicine and Nursing for adoption as presented. The motion was seconded and passed unanimously.

NEW BUSINESS:

Environmental Scan:

Ms. Hershkowitz asked the Advisory Committee members to share with the Committee of the Joint Boards any updates or trends in their practice environments.

Mr. Coles said that he has heard positive feedback regarding nurse practitioner regulations.

Mr. Bridge agreed with Mr. Coles.

Ms. Dodson said that there are high demand of certified nurse midwives (CNMs) in obstetric care. Ms. Dodson added that the American College of Nurse-Midwives (ACNM) will hold a Conference in Washington DC and they are looking for speakers. Ms. Hershkowitz asked for the date of the Conference. Ms. Dodson said she will find out and pass it on.

Dr. Mackler suggested that nurse practitioners examine the impact on salaries when nurse practitioners are granted authorization for autonomous practice.

Ms. Setnor shared that she continued to be reimbursement/billing issues for Certified Registered Nurse Anesthetists (CRNAs) who provide services for Anthem participants.

Ms. Hershkowitz thanked all Advisory Committee Members for the information.

Board of Nursing Executive Director Report:

- **Development of attestation forms and process** – Ms. Douglas deferred this matter to Ms. Willinger
- **Communication to nurse practitioners regarding HB793** – Ms. Douglas stated that Boards of Medicine and Nursing sent out notification via email. Information was also included in Board of Medicine “Board Briefs.” Board of Nursing staff continue to receive many calls regarding autonomous practice on daily basis.
- **Frequently asked questions to staff** – Ms. Douglas commented that many questions indicate that people need to be more familiar with laws and regulations. She noted that some questions received from nurse practitioners require collaboration between Boards of Medicine, Pharmacy and Nursing.
- **DHP Paperless License Initiative** - 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.
- **NBCSN APRN Compact Update** – Ms. Douglas said that at the July NCSBN Board of Directors meeting, the board decided to establish a task force to revisit the APRN Compact due to some conflicts between state laws and compact language. The task force will have recommendations by the next NCSBN Mid-Year meeting. Ms. Douglas stated that NCSBN is also making plans to convene a forum of board of nursing regulators to discuss inconsistencies and challenges of the APRN Consensus Model. Ms. Douglas added that David Benton, NCSBN CEO, met with the Federal Trade Commission’s office of Policy Planning to continue NCSBN efforts in educating staff and commissioners on issues related to APRN scope of practice.

NCSBN APRN issues report – Dr. Hills attended the NCSBN APRN Knowledge conference call on August 9, 2018 and reported the following:

1. Ebola is back in the Republic of the Congo
2. Emergency NP certification

- AANP Certification Board in collaboration with the American Academy of Emergency Nurse Practitioners has developed an Emergency specialty exam which will be available only to Family Nurse Practitioners
 - Great need for any provider in rural parts of the country is a driver
 - The rationale for those in Favor: FNP training includes the skill to stabilize the unstable patient and because 85% of ER visits are primary care
 - The rationale for those Against: (Adult-Gero Acute Care NPs) - FNPs are not prepared for the Acute Care patient and providing acute care is outside the scope of the original FNP population focus
 - The APRN Consensus Model will be challenged by this issue so M Cahill/NCSBN will take this issue to LACE meeting in early October
3. State Boards asked if aware of “Nurse Anesthesiologists” title for CRNAs – 5 states said yes
 - Driver behind this is that anesthetist assistants use “anesthetist” title and is confusing
 4. Task Force is being created on APRN Compact
 - Main issue: states with transition to practice *[includes Virginia]*

NP Licensing Report – Ms. Willinger reported the following:

- **Development of attestation forms and process** – attestation process will be similar to current process for nurse practitioners to add a specialty and treated as an application that be submitted as a paper application. Draft attestation form (application) has been circulated internally and was drafted to be consistent with the law and proposed emergency regulations.
- **Data clean up** – data cleanup for nurse practitioner license/education information activities completed by summer intern. The purpose of this project is to get the nurse practitioner license data ready to upload to NURSUS available via “Quick Confirm”. There are 26 states currently uploading APRN license data through NURSUS quick confirm.
- **Certification availability in NURSUS** – Board staff have worked with IT staff to create a place in Nursing licensing system to accurately record nurse practitioner national certification information to include certifying agency, certification number, expiration date and one place to record license (specialty) categories. New drop down features to record certification and specialty information will prepare accurate data for future inclusion in NURSUS for APRNs.

Ms. Hershkowitz requested Board staff to provide the draft application for autonomous practice for review by the Committee of the Joint Boards of Nursing and Medicine at a future meeting. Ms. Douglas emphasized that the Joint Boards role is not to approve application content, however, feedback from the Committee of the Joint Boards and the Advisory Members would be appreciated once the form has been in use for a few months .

RECESS:

The Board recessed at 11:05 AM

The Advisory Committee Members left the meeting at 11:05 A.M.

RECONVENTION: The Board reconvened at 11:20 AM

Agency Subordinate Recommendations Consideration

**Judith Tapsell Thompson Gore, LNP 0024-047673; Prescriptive
Authority 0017-136820**

Michael Goodman, Esquire, appeared on behalf of Ms. Gore.

CLOSED MEETING: Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:26 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Gore. Additionally, Dr. Hahn moved that Ms. Douglas, Dr. Hills, Ms. Willinger, Ms. Vu and Ms. Barrett, Board counsel, 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 Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 11:34 A.M.

Dr. Hahn moved that the Committee of the Joint Boards 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.

Dr. O'Connor moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to indefinitely suspend the license of Judith Tapsell Thompson Gore to practice as a nurse practitioner and her authorization to prescribe in the Commonwealth of Virginia for a period of not less than one year from the date of entry of the Order. The motion was seconded and carried unanimously.

Ms. Gerardo and Dr. Hills left the meeting at 11:35 A.M.

**Ann Alexandrer Leggett, LNP 0024-170036; Prescriptive
Authority 0017-141424**

Ms. Leggett appeared and was accompanied by Gerald Canaan, II, Esquire.

CLOSED MEETING: Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:36 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Leggett. Additionally, Dr. Hahn moved that Ms.

Virginia Board of Nursing
Committee of the Joint Boards of Nursing and Medicine Minutes
October 10, 2018

Douglas, Ms. Willinger, Ms. Vu and Ms. Barrett, Board counsel, 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 Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 11:47 A.M.

Dr. Hahn moved that the Committee of the Joint Boards 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.

Dr. O'Connor moved that the Committee of the Joint Boards of Nursing and Medicine modify the recommended decision of the agency subordinate to reprimand Ann Alexander Leggett, to require Ms. Leggett to complete 12 hours face-to-face Board approved continuing education/CME on prescribing within six months from the date of entry of the Order, and to provide evidence of review of current regulations regarding prescriptive authority on prescribing of opioids. The motion was seconded and carried unanimously.

Ms. Gerardo rejoined the meeting at 11:55 A.M.

Lea E. Lineberry, LNP
Authority 007-141075

0024-170356; Prescriptive

Ms. Lineberry did not appear.

CLOSED MEETING:

Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:56 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Lineberry. Additionally, Dr. Hahn moved that Ms. Douglas, Ms. Willinger, Ms. Vu and Ms. Barrett, Board counsel, 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 Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 12:10 P.M.

Dr. Hahn moved that the Committee of the Joint Boards 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.

Ms. Gerardo moved that the Committee of the Joint Boards of Nursing and Medicine modify the recommended decision of the agency subordinate to place Lea E. Lineberry on probation for not less than one year with terms to include:

- Ms. Lineberry ensures that the collaborating physician review 10 randomly selected patient records per quarter and provides a report to the Boards;
- Ms. Lineberry completes 12 hours face-to-face continuing education/CME on the management of common pediatric condition and 6 hours of face-to-face continuing education/CME on documentation;
- Ms. Lineberry provides self-reports; and
- Ms. Lineberry provides collaborating physician and employer with a copy of the Board Order

The motion was seconded and carried unanimously.

Consent Order Consideration

Anya Williams Howard, LPN 0024-167523

Prescriptive Authority 0017-138951

Dr. Hahn moved to accept the consent order to indefinitely suspend the license of Anya Williams Howard to practice as a nurse practitioner and authorization to prescribe in the Commonwealth of Virginia from the date of entry of the Order. The suspension is stayed contingent upon Ms. Howard's continued compliance with all terms and conditions of the Health Practitioners' Monitoring Program (HPMP) for the period specified by the HPMP. The motion was seconded and carried unanimously.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 12:14 P.M.

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

VIRGINIA COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
SPECIAL CONFERENCE COMMITTEE MINUTES
October 10, 2018

TIME AND PLACE: The meeting of the Special Conference Committee of the Joint Boards of Nursing and Medicine was convened at 1:13 P.M., in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

MEMBERS PRESENT: Louise Hershkowitz, CRNA, MSHA, Chairperson
Dr. Joyce Hahn, PhD, RN, NEA-BC, FNAP
Dr. Kenneth Walker, MD

STAFF PRESENT: Robin Hills, DNP, WHNP, Deputy Director, Board of Nursing
David Kazzie, Adjudication Specialist, Administrative Proceedings Division
Grace Stewart, Adjudication Specialist, Administrative Proceedings Division

**CONFERENCES
SCHEDULED:**

Heather Duty, LNP Reinstatement Applicant

Ms. Duty appeared, accompanied by Elizabeth Heddleston, Esquire, legal counsel, and Heman Marshall, Esquire, legal counsel.

CLOSED MEETING: Dr. Hahn moved that the Special Conference Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to Section 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. Duty. Additionally, Dr. Hahn moved that Dr. Hills and Mr. Kazzie attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION: The Committee reconvened in open session at 2:15 P.M.

Dr. Hahn moved that the Special Conference Committee of the Joint Boards of Nursing and Medicine certifies 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: Dr. Walker moved to issue an Order to reinstate the licenses of Ms. Duty to practice as a nurse practitioner, with prescriptive authority, in the Commonwealth of Virginia.

The motion was seconded and carried unanimously.

An Order will be entered. As provided by law, this decision shall become a Final Order thirty days after service of such order on Ms. Duty unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Duty within such time. If service of the order is made by mail, 3 additional

The Committee of the Joint Boards of
Nursing and Medicine Informal Conference
October 10, 2018

days shall be added to that period. Upon such timely request for a formal hearing,
the Order shall be vacated.

ADJOURNMENT: The meeting was adjourned at 2:20 P.M.

Robin L. Hills, DNP, RN, WHNP
Deputy Executive Director

DRAFT

Letter from the President

Letter from the President

POST-BOARD MEETING UPDATE

Oct. 3, 2018

“Without continual growth and progress, such words as improvement, achievement and success have no meaning”

Benjamin Franklin

Dear Colleagues,

We are indeed experiencing continual growth and progress in our organization! We had an exceptional Annual Meeting and successful celebration of our 40th anniversary last month in Minneapolis.

The Board of Directors (BOD) met Sept. 17-19 in Chicago. We spent our first day in orientation focused on governance of the organization, facilitated by consultant Mark Engle. General Counsel Tom Wilde reviewed the legal and fiduciary role of BOD members and Chief Financial Officer Rob Clayborne introduced not-for-profit finance.

The following is a summary of the discussions and actions of the BOD at the meeting.

ENVIRONMENTAL SCAN

1. Several states have gubernatorial elections this fall. Many are awaiting election results to ascertain the impact on occupational regulation in their respective jurisdictions.
2. Varying types of “opioid taskforces” are now widespread, in response to the opioid crisis. Nurse regulators are active contributors to this work.
3. At the jurisdictional level, legislators continue to move toward decriminalization of certain crimes for licensure or disciplinary purposes. The trend has been to decriminalize misdemeanor crimes unless directly related to nursing practice.
4. Hurricane Florence severely impacted North Carolina and other parts of the southeast. Responsiveness of volunteers was facilitated by the fact that North Carolina and all surrounding states are members of the Nurse Licensure Compact. This was extremely helpful to disaster relief.
5. Our Global Regulatory Atlas has been presented at many public forums with stakeholder groups. It has been extremely well received. We continue to add more countries every week. As of Oct. 1, there are 228 jurisdictions providing information on 17.7 million nurses.

GOVERNMENTAL/POLICY AFFAIRS

Government Affairs Director Elliot Vice reported that occupational licensing reform and scope of practice are two issues still at the forefront of policy discussions. NCSBN was invited and participated in a roundtable discussion at the White House related to scope of practice. Elliot Vice and CEO David Benton met with the Federal Trade Commission’s office of Policy Planning to continue our efforts in educating staff and commissioners on issues related to APRN scope of practice.

Government Affairs staff continues to work directly with staff at the Department of Veterans Affairs to facilitate implementation of the APRN full practice authority rule. They also met with Congressional members and staff in support of reauthorization of funding of Title VIII Nursing Workforce Programs and continued funding for nursing research programs.

FINANCE COMMITTEE

The BOD accepted the financial statements for the period ending June 30, 2018 and audit plans for the 2018 fiscal year. The 2018-2019 proposed budget was reviewed, discussed and approved. The BOD also reviewed and approved the Finance Committee request for a revised spending policy. The revised policy clarifies the amount of the current fund balance that may be used as a source of operating revenue, and how much must be held in reserve. With future spending needs difficult to forecast, establishment of a designated endowment provides the organization a fixed level of investments to generate earnings to support our operations. The combined endowment and reserves (capital and operating) will ensure a strong financial position for the long term.

Louisiana State Board of Practical Nurse Examiners (LSBPNE) Funding Request

The BOD review, discussed and approved a funding request from LSBPNE for a data integrity project, consistent with BOD Direct Assistance Funding Policy 2.9.

THE ECONOMIC BURDEN AND PRACTICE RESTRICTIONS ASSOCIATED WITH COLLABORATIVE PRACTICE AGREEMENTS

Research Scientist Brendan Martin presented the findings of a national survey (random sample) of APRNs practicing in states that require collaborative practice agreements. This was an exciting study and the results provide further evidence on continued barriers to full practice authority.

APRN COMPACT TASK FORCE

At the July BOD meeting, the board decided to establish a task force to revisit the APRN Compact due to some conflicts between state laws and compact language. The task force is expected to begin work as soon as possible, led by NCSBN immediate past president Kathy Thomas. Kathy was involved with the original drafting of model language and will provide continuity for deliberations. We recognized that the task force must be nimble enough to produce recommendations to the BOD and to membership in a timely fashion. The goal is to have discussion at our Midyear meeting, with input from this task force.

The BOD appointed the following members to the Task Force:

- Stacey Pfenning, executive officer, North Dakota Board of Nursing
- Shirley Brekken, executive officer, Minnesota Board of Nursing
- Jennifer Burns, staff, Wyoming State Board of Nursing
- Tom Wilde, counsel, NCSBN
- Rick Masters, counsel, Nurse Licensure Compact

CONSENSUS MODEL FORUM FOR NURSE REGULATORS

At our August 2018 Delegate Assembly, a resolution was passed by the delegates calling for NCSBN to convene a forum of board of nursing regulators to discuss inconsistencies and challenges of the APRN Consensus Model. NCSBN is currently making plans for the Forum. It will be held sometime in the spring of 2019. Details will be presented at the next BOD meeting in December. A progress report will be provided at the 2019 NCSBN Annual Meeting in Chicago.

LEADERSHIP SUCCESSION COMMITTEE (LSC) APPOINTMENTS

The BOD appointed Kaci Bohn, Arkansas, to chair the LSC. Susan Odom, Idaho Board of Nursing, was appointed to fill the Area I vacancy on the LSC.

The BOD will meet for our Strategic Planning Retreat in October. We have done a lot of preparatory work for the meeting and look forward to making progress with Dr. Stephanie Ferguson as facilitator.

We look forward to seeing many of you at the International Nurse Regulator Collaborative Symposium and/or the Scientific Symposium, Oct. 22-24, in Chicago.

Best Regards,

Julia George, MSN, RN, FRE

President

919-782-3211 ext. 250

Julie@ncbn.com



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

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Executive Director

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Memo

To: Board Members

From: Lisa Speller, RN, BSN 

CC: Jay P. Douglas, MSM, RN, CSAC, FRE

Re: Guidance Documents

Date: October 26, 2018

Attached are Guidance Documents from the Board of Nursing currently due for review.

Ms. Douglas and I have met and completed a review of this first set of documents.

Please review the documents for approval; let us know if you have any questions.

VIRGINIA BOARD OF NURSING

GUIDANCE DOCUMENT # 90-1

TITLE: RN/LPN as First Assistants In Surgery

Registered Nurses As First Assistant In Surgery:

Registered Nurses may serve as first assistant in surgery in cases compatible with their preparation and experience.

The medical staff, hospital administration and nursing service department of any hospital that permits registered nurses to serve as first assistant in surgery shall have mutually agreed upon written policies under which the registered nurse may safely act as a first assistant. The policies should include qualifications of nurses who may act in this capacity, the types of surgical procedures in which they may act in this capacity and prohibitions. The safety and welfare of parties must be given primary consideration in the development of such policies.

Licensed Practical Nurses Acting As First Assistants in the Operating Room:

After a request from the Board of Nursing to the Board of Medicine regarding LPN's acting as first assistants in the operating room, the Board of Medicine responded that LPN's may be used as first assistants in the operating room when appropriate.

Accepted: June 30, 1976; January 1994

Revised: November 18, 2003 [combined 90-1 & 90-12]

Virginia Board of Nursing

Use of Cervical Ripening Agents

The use of cervical ripening agents approved for that purpose (for example Prostaglandin E-2 gel) is considered the administration of medication which is in the scope of nursing practice.

Adopted: August 27, 1996 (from a letter sent to Phyllis E. Schultze, RN)

Revised: November 18 , 2003

Reviewed: August 22, 2012

Virginia Board of Nursing

Cutting of Corns and Warts by RN's and LPN's

The cutting of corns and warts with a scalpel is the practice of medicine or podiatry and not within the scope of practice the Registered Nurse or Licensed Practical Nurse.

Approved: December 16, 1996

Revised: November 18, 2003

Reviewed: August 22, 2012

Virginia Board of Nursing

Epidural Anesthesia by RN's and LPN's

It is not within the scope of practice of a Registered Nurse to bolus epidural anesthesia in obstetric and perioperative patients unless qualified personnel are immediately available on site to treat complications and the nurse has demonstrated clinical competence in the procedure.

It is not within the scope of practice of a Licensed Practical Nurse to bolus epidural anesthesia in any scenario.

Adopted: September 23, 1997
Revised: September 22, 1998
November 18, 2003
September 11, 2012

Virginia Board of Nursing

Decision-Making Model for Determining RN/LPN Scope of Practice

The mission of the Virginia Board of Nursing is to assure safe and competent practice to protect the health, safety and welfare of the citizens of the Commonwealth.

In the practice of nursing, professional issues and practice questions arise that require the nurse to apply education, experience and professional judgment and to be legally responsible and accountable for the outcome(s).

The role of the licensing board is to establish minimum standards for education, licensure and practice and to provide information to practicing nurses. However, the licensing board cannot and should not make decisions for its licensees. The law (Code of Virginia) and Board regulations require the licensee to provide nursing care services within parameters consistent with education, skills, experience, and current competence.

Therefore, in an effort to ensure safe, competent nursing services to the public, as well as to educate and provide direction to nurses to facilitate clinical decision-making in determining legal scope of practice, the Board of Nursing adopted a Decision-Making Model for Determining RN/LPN Scope of Practice on September 24, 1996 and re-adopted it on September 11, 2012. The following model may be utilized in conjunction with applicable Virginia nursing laws and regulations in a given practice situation.

Adopted: September 24, 1996
Reviewed: November 18, 2003
Revised: September 11, 2012

**VIRGINIA BOARD OF NURSING
A DECISION-MAKING MODEL FOR DETERMINING
RN/LPN SCOPE OF PRACTICE**

Describe the activity/task to be performed.

Is the activity/task expressly permitted or prohibited by the Virginia Nurse Practice Act for the type of license you hold?

UNSURE

PERMITTED

PROHIBITED - STOP!

Is the activity/task consistent with the scope of practice based upon at least TWO of the following standards?
 * *Standards of practice of a national nursing organization.*
 * *Established policy and protocol of employing agency.*
 * *Nursing literature and research*
 * *Reasonable, prudent nurse in similar circumstance.*

NO - NOT WITHIN YOUR SCOPE OF PRACTICE!

Do you personally possess the depth and breadth of knowledge to perform the activity/task safely and effectively, as acquired in a pre-licensure program, post-basic program, continuing education program, or structured self-study program?

NO - STOP UNTIL ADDITIONAL KNOWLEDGE GAINED!

Do you personally possess current clinical skills to perform the activity/task in a competent, safe manner?

YES

NO - STOP UNTIL CLINICAL SKILLS OBTAINED!

Is the performance of the activity/task within the accepted "standard of care" that would be provided in similar circumstances by reasonable, prudent nurses with similar education, skills, and experience, consistent with appropriately established agency policies and procedures?

NO - STOP! PERFORMANCE OF ACTIVITY/TASK MAY PLACE BOTH PATIENT AND NURSE AT RISK!

YES

Are you prepared to assume professional accountability for safe, effective nursing practice (*by accepting the consequences of your actions*) ?

NO - NOTIFY APPROPRIATE PERSON(S)!

YES

YOU MAY PERFORM THE ACTIVITY/TASK ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF SAFE NURSING CARE (WITH VALID ORDER AS REQUIRED AND IN ACCORDANCE WITH AGENCY POLICIES AND PROCEDURES).

Virginia Board of Nursing

Requests by Revoked Certified Nurse Aides with Prior Adverse Findings

The Board of Nursing will not consider requests for reinstatement from CNA's who have been previously revoked on the basis of abuse, neglect or misappropriation of property, unless it was a finding of neglect based on a single occurrence in compliance with Section 4755 of the Balanced Budget Act of 1997, which amends 42 U.S.C. 1395i-3(g)(1) section 1819(g)(1) and 42 U.S.C. 1396r(g)(1).

An applicant may petition the Board for removal of that finding *only one time* after a period of one year has passed since the finding of Neglect was made. Further, the Board requires that the petitioner has the burden of proof to establish his/her employment and personal history do not reflect a pattern of abusive behavior or neglect.

Accepted: July 23, 1996

Revised: November 18, 2003; January 29, 2013

Requests for Review and Challenges of NCLEX

The Board prohibits the review and challenge of the NCLEX Exam by candidates who have failed the exam.

Adopted: July 20, 1999
Reviewed: November 18, 2003
Reviewed: May 21, 2013

Virginia Board of Nursing

Surveillance Activities Required By the OSHA Respiratory Standards

The following surveillance activities required by the Occupational Safety and Health Act (OSHA) Respiratory Standards are within the scope of practice of the registered nurse.

1. Administering OSHA's mandatory questionnaire related to respirator use;
2. Maintaining confidentiality of the questionnaire contents;
3. Reviewing the respirator use information on:
 - a. Hazard requiring respiratory protection (i.e. use of a respirator at work);
 - b. Type of respirator to be worn, pending a successful fit test;
 - c. Duration and frequency of respirator use;
 - d. Expected physical work effort while wearing a respirator;
 - e. Other personal protective equipment (PPE) to be worn concurrently;
 - f. Extremes of temperature and humidity;
4. Integrating the questionnaire answers with the review of respirator use information described in 3-a through 3-f, above;
5. Performing a basic nursing assessment of the health of the employee related to respirator use;
6. Determining if there is sufficient information to reach a reasonable and prudent nursing judgment related to the employee's safe use of a respirator without health or medical limitations; and
7. Referring the employee to a licensed physician if there is not sufficient information to reach the necessary judgment of the employee's ability to safely use a respirator without limitation.

Adopted: November 15, 2000

Reviewed: November 18, 2003

August 23, 2012

September 11, 2012

Virginia Board of Nursing

Patient Abandonment by Care Providers*

For the purposes of this guidance document, care providers* are persons licensed, certified or registered by the Board of Nursing, to include registered nurses, licensed practical nurses, certified nurse aides or registered medication aides.

The Board has received numerous inquiries regarding what constitutes patient abandonment and the imposition of mandatory overtime by employers. These inquiries usually are the result of situations encountered by care providers in relation to their work assignments. Patient abandonment is not defined in the Virginia Nurse Practice Act. For patient abandonment to be a violation of the Nurse Practice Act, it must be determined to “unprofessional conduct” (#2 of § 54.1-3007) or “practicing in a manner contrary to the standards of ethics or in such a manner as to make his practice a danger to the health and welfare of patients or to the public” (#5 of § 54.1-3007). The term abandonment is referred to in the Board regulations as a cause for discipline for nurses in 18 VAC 90-20-300, for certified nurse aides in 18 VAC 90-25-100, and for registered medication aides in 18VAC90-60-120.

Mandatory overtime usually refers to situations when the employer requires the care providers to remain on the job after the end of their scheduled work hours. It has also been imposed to require employees to come in to the workplace on unscheduled work days or hours. This is usually a result of staffing shortages at the facility. Care providers often ask if the employer can actually require them to remain on the job, and what will happen if they refuse to stay or come in to work. It is frequently reported that they have been told if they refuse to work, they will be fired, and reported to the Board for “patient abandonment.”

The term “patient abandonment” should be differentiated from the term “employment abandonment,” which becomes a matter of the employer-employee relationship and not that of the Board of Nursing. It should be noted that from a regulatory perspective, in order for patient abandonment to occur, the care provider must have first accepted the patient assignment and established a provider-patient relationship, then severed that provider-patient relationship without giving reasonable notice to the appropriate person (supervisor, employer) so that arrangements can be made for continuation of care by others. Providing appropriate personnel to care for patients is the responsibility of the employer. Failure of a care provider to work beyond his/her scheduled shift, refusal to accept an assignment, refusal to float to another unit, refusal to report to work, and resigning without notice, are examples of employment issues, and not considered by the Board to constitute patient abandonment.

The nurse manager/supervisor is accountable for assessing the capabilities of personnel in relationship to client needs and delegating or assigning care functions to qualified personnel. The nurse manager/supervisor’s responsibility also includes making judgments about situational factors (e.g., fatigue, lack of sleep, lack of orientation and

training to a particular unit) that would influence the provider's capability to deliver safe, effective care. The nurse manager should be aware that he/she could be subject to disciplinary action by the Board for assigning patient care responsibilities to staff when the manager knows, or should reasonably know, that the assignment may affect the competency of the care provider. Additionally, Joint Commission on Accreditation of Healthcare Organization Standards say that a nurse must be provided an orientation to the unit they are assigned, as well as training and credentialing in the specialized skills of the particular unit.

Care providers are accountable for the care they provide. Before accepting an assignment, it is most important that the provider have the knowledge, skills, and abilities to safely perform the tasks assigned. If a provider arrives for work and determines it would be unsafe to provide the care assigned, the provider should immediately contact the supervisor, explain him/her concerns, and request assistance in planning and providing safe, effective care based upon the available resources in the agency. Such assistance might include additional staff, additional assistance by other individuals for specific activities, prioritizing care or activities and notifying others regarding limitations to be imposed on providing optimal care delivery during the period of understaffing. Regardless of the staffing situation, when a care provider accepts an assignment, he/she will be held to the standard of delivering safe care, protecting patients from harm, monitoring client responses to medical and nursing interventions, communication with other professionals regarding patient status and accurate documentation for care that has been delivered.

To summarize, patient abandonment can only occur after the care provider has come on duty for the shift and accepted his/her assignment. If the care provider leaves the area of assignment during his/her tour of duty prior to the completion of the shift and without adequate notification to the immediate supervisor, it is possible the Board would consider taking disciplinary action. However, when a care provider refuses to remain on duty for an extra shift beyond his/her established schedule, it is not considered patient abandonment should the provider choose to leave at the end of the regular shift, provided he/she has appropriately notified the supervisor and reported off to another provider.

Adopted: March 20, 2001 (Initially authored by Shelley Conroy, RN, PhD)

Reviewed: November 18, 2003

Revised: September 11, 2012

Virginia Board of Nursing

Guidance on the Use of Social Media

Applicability

This guidance document of the Board of Nursing applies to all *practitioners* regulated by the Board - including registered nurses, licensed practical nurses, certified massage therapists, certified nurse aides and registered medication aides.

Definition

What, exactly, is social media? Merriam-Webster defines social media as:

...forms of electronic communication...through which users create online communities to share information, ideas, personal messages, and other content...

About.com clarifies that:

...social media would be a social instrument of communication...a website that doesn't just give you information, but interacts with you while giving you that information...a two-way street that gives you the ability to communicate too. Any website that invites you to interact with the site and with other visitors falls into the definition of social media.

Background

The use of Social Media and other electronic communication is increasing exponentially with growing numbers of social media outlets, platforms and applications, including blogs, social networking sites, video sites, and online chat rooms and forums. Practitioners often use electronic media both personally and professionally. Instances of inappropriate use of electronic media by practitioners have been reported to boards of nursing and, in some cases, reported in nursing literature and the media. This document is intended to provide guidance to practitioners using electronic media in a manner that maintains patient privacy and confidentiality.

Social media can benefit health care in a variety of ways, including fostering professional connections, promoting timely communication with patients and family members, and educating and informing consumers and health care professionals.

Practitioners are increasingly using blogs, forums and social networking sites to share workplace experiences particularly events that have been challenging or emotionally charged. These outlets provide a venue for the practitioner to express his or her feelings, and reflect or seek support from friends, colleagues, peers or virtually anyone on the Internet. Journaling and reflective practice have been identified as effective tools in health care practice. The Internet provides an alternative media for practitioners to engage in these helpful activities. Without a sense of caution, however, these understandable needs and potential benefits may result in the practitioner disclosing too much information and violating patient privacy and confidentiality.

Health care organizations that utilize electronic and social media typically have policies governing employee use of such media in the workplace. Components of such policies often address personal use of employer computers and equipment, and personal computing during work hours. The policies may address types of websites that may or may not be accessed from employer computers. Health care organizations also maintain careful control of websites maintained by or associated with the organization, limiting what may be posted to the site and by whom.

The employer's policies, however, typically do not address the practitioner's use of social media outside of the workplace. It is in this context that the practitioner may face potentially serious consequences for inappropriate use of social media.

Confidentiality and Privacy

To understand the limits of appropriate use of social media, it is important to have an understanding of confidentiality and privacy in the health care context. Confidentiality and privacy are related, but distinct concepts. Any patient information learned by the practitioner during the course of treatment must be safeguarded by that practitioner. Such information may only be disclosed to other members of the health care team for health care purposes. Confidential information should be shared only with the patient's informed consent, when legally required or where failure to disclose the information could result in significant harm. Beyond these very limited exceptions the practitioner's obligation to safeguard such confidential information is universal.

Privacy relates to the patient's expectation and right to be treated with dignity and respect. Effective practitioner-patient relationships are built on trust. The patient needs to be confident that their most personal information and their basic dignity will be protected by the practitioner. Patients will be hesitant to disclose personal information if they fear it will be disseminated beyond those who have a legitimate "need to know." Any breach of this trust, even inadvertent, damages the particular practitioner-patient relationship and the general trustworthiness of the profession of nursing.

Federal law reinforces and further defines privacy through the Health Insurance Portability and Accountability Act (HIPAA). HIPAA regulations are intended to protect patient privacy by defining individually identifiable information and establishing how this information may be used, by whom and under what circumstances. The definition of individually identifiable information includes any information that relates to the past, present or future physical or mental health of an individual, or provides enough information that leads someone to believe the information could be used to identify an individual.

Breaches of patient confidentiality or privacy can be intentional or inadvertent and can occur in a variety of ways. Practitioners may breach confidentiality or privacy with information he or she posts via social media.

Examples may include comments on social networking sites in which a patient is described with sufficient detail to be identified, referring to patients in a degrading or demeaning manner, or posting video or photos of patients.

Board of Nursing Implications

Instances of inappropriate use of social and electronic media may be reported to the Board, and it may investigate reports of inappropriate disclosures on social media by a practitioner on the grounds of:

- Unprofessional conduct;
- Unethical conduct;
- Moral turpitude;
- Mismanagement of patient records;
- Revealing a privileged communication; and
- Breach of confidentiality.

If the allegations are found to be true, the practitioner may face disciplinary action by the Board, including a reprimand or sanction, assessment of a monetary fine, or temporary or permanent loss of licensure, certification or registration.

A 2010 survey of Boards of Nursing conducted by the National Council of State Boards of Nursing indicated an overwhelming majority of board responding (33 of the 46 respondents) reported receiving complaints of practitioners who have violated patient privacy by posting photos or information about patients on social networking sites. The majority (26 of the 33) reported taking disciplinary actions based on these complaints. Actions taken included censure of the practitioner, issuing a letter of concern, placing conditions on the practitioner's license or suspension of the practitioner's license.

Possible Consequences

Potential consequences for inappropriate use of social and electronic media by a practitioner are varied. The potential consequences will depend, in part, on the particular nature of the practitioner's conduct.

Improper use of social media by practitioners may violate state and federal laws established to protect patient privacy and confidentiality. Such violations may result in both civil and criminal penalties, including fines and possible jail time. A practitioner may face personal liability. The practitioner may be individually sued for defamation, invasion of privacy or harassment. Particularly flagrant misconduct on social media websites may also raise liability under state or federal regulations focused on preventing patient abuse or exploitation.

If the practitioner's conduct violates the policies of the employer, the practitioner may face employment consequences, including termination. Additionally, the actions of the practitioner may damage the reputation of the health care organization, or subject the organization to a law suit or regulatory consequences.

Another concern with the misuse of social media is its effect on team-based patient care. Online comments by a practitioner regarding co-workers, even if posted from home during nonwork hours, may constitute as lateral violence. Lateral violence is receiving greater attention as more is learned about its impact on patient safety and quality clinical outcomes. Lateral violence includes disruptive behaviors of intimidation and bullying, which may be perpetuated in person or via the Internet, sometimes referred to as "cyber bullying." Such activity is cause for concern for current and future employers and regulators because of the patient-safety ramifications. The line between speech protected by labor laws, the First Amendment and the ability of an employer to impose expectations on employees outside of work is still being determined. Nonetheless, such

comments can be detrimental to a cohesive health care delivery team and may result in sanctions against the practitioner.

Common Myths and Misunderstandings of Social Media

While instances of intentional or malicious misuse of social media have occurred, in most cases, the inappropriate disclosure or posting is unintentional. A number of factors may contribute to a practitioner inadvertently violating patient privacy and confidentiality while using social media. These may include:

- A mistaken belief that the communication or post is private and accessible only to the intended recipient. The practitioner may fail to recognize that content once posted or sent can be disseminated to others. In fact, the terms of using a social media site may include an extremely broad waiver of rights to limit use of content. The solitary use of the Internet, even while posting to a social media site, can create an illusion of privacy. □ A mistaken belief that content that has been deleted from a site is no longer accessible.
- A mistaken belief that it is harmless if private information about patients is disclosed if the communication is accessed only by the intended recipient. This is still a breach of confidentiality.
- A mistaken belief that it is acceptable to discuss or refer to patients if they are not identified by name, but referred to by a nickname, room number, diagnosis or condition. This too is a breach of confidentiality and demonstrates disrespect for patient privacy.
- Confusion between a patient's right to disclose personal information about himself/herself (or a health care organization's right to disclose otherwise protected information with a patient's consent) and the need for health care providers to refrain from disclosing patient information without a care-related need for the disclosure.
- The ease of posting and commonplace nature of sharing information via social media may appear to blur the line between one's personal and professional lives. The quick, easy and efficient technology enabling use of social media reduces the amount of time it takes to post content and simultaneously, the time to consider whether the post is appropriate and the ramifications of inappropriate content.

Guiding Principles and Tips

Social networks and the **Internet** provide unparalleled opportunities for rapid knowledge exchange and dissemination among many people, but this exchange does not come without risk. Practitioners and students have an obligation to understand the nature, benefits, and consequences of participating in social networking of all types. Online content and behavior has the potential to enhance or undermine not only the individual practitioner's career, but also the profession. The following information includes principles for Social Networking provided by the American Nurses Association (ANA).

- Practitioners must not transmit or place online individually identifiable patient information.
- Practitioners must observe ethically prescribed professional patient — practitioner boundaries.

- Practitioners should understand that patients, colleagues, institutions, and employers may view postings.
- Practitioners should take advantage of privacy settings and seek to separate personal and professional information online.
- Practitioners should bring content that could harm a patient's privacy, rights, or welfare to the attention of appropriate authorities.
- Practitioners should participate in developing institutional policies governing online conduct

How to Avoid Problems

It is important to recognize that instances of inappropriate use of social media can and do occur, but with awareness and caution, practitioners can avoid inadvertently disclosing confidential or private information about patients.

The following guidelines are intended to minimize the risks of using social media:

- Recognize the ethical and legal obligation to maintain patient privacy and confidentiality at all times.
- Do not transmit by way of any electronic media any patient-related image. In addition, practitioners are restricted from transmitting any information that may be reasonably anticipated to violate patient rights to confidentiality or privacy, or otherwise degrade or embarrass the patient.
- Do not share, post or otherwise disseminate any information, including images, about a patient or information gained in the practitioner-patient relationship with anyone unless there is a patient care related need to disclose the information or other legal obligation to do so.
- Do not identify patients by name or post or publish information that may lead to the identification of a patient. Limiting access to postings through privacy settings is not sufficient to ensure privacy.
- Do not refer to patients in a disparaging manner, even if the patient is not identified.
- Do not take photos or videos of patients on personal devices, including cell phones. Follow employer policies for taking photographs or video of patients for treatment or other legitimate purposes using employer-provided devices.
- Maintain professional boundaries in the use of electronic media. Like in-person relationships, the practitioner has the obligation to establish, communicate and enforce professional boundaries with patients in the online environment. Use caution when having online social contact with patients or former patients. Online contact with patients or former patients blurs the distinction between a professional and personal relationship. The fact that a patient may initiate contact with the practitioner does not permit the practitioner to engage in a personal relationship with the patient.
- Consult employer policies or an appropriate leader within the organization for guidance regarding work related postings.
- Promptly report any identified breach of confidentiality or privacy.
- Be aware of and comply with employer policies regarding use of employer-owned computers, cameras and other electronic devices and use of personal devices in the work place.

- Do not make disparaging remarks about employers or co-workers. Do not make threatening, harassing, profane, obscene, sexually explicit, racially derogatory, homophobic or other offensive comments.
- Do not post content or otherwise speak on behalf of the employer unless authorized to do so and follow all applicable policies of the employer.

Conclusion

Social and electronic media possess tremendous potential for strengthening personal relationships and providing valuable information to health care consumers. Practitioners need to be aware of the potential ramifications of disclosing patient-related information via social media. Practitioners should be mindful of employer policies, relevant state and federal laws, and professional standards regarding patient privacy and confidentiality and its application to social and electronic media. By being careful and conscientious, practitioners may enjoy the personal and professional benefits of social and electronic media without violating patient privacy and confidentiality.

References:

- American Nurses Association. (2011, September). Silver Spring, MD: Author.
 - Principles for social networking and the nurse.
 - Fact Sheet: Navigating the world of social media.
 - 6 Tips for nurses using social media.
- National Council of State Boards of Nursing. (2011, August). White Paper: A Nurse's Guide to the Use of Social Media. Chicago, IL: Author.

Virginia Board of Nursing

Removal of Venous and Arterial Sheaths by Unlicensed Personnel

The Board of Nursing Regulation on delegation to unlicensed personnel [18 VAC 90-20-440 (1) (f)] requires that the task to be delegated “have predictable results and for which the consequences of performing the task or procedure improperly are minimal and not life-threatening.”

The Board’s interpretation is that the delegation to unlicensed personnel of the task of removal of venous and arterial sheaths is **NOT** consistent with the regulations on delegation of nursing tasks to unlicensed persons.

Adopted: September 24, 2003

Reviewed: November 18, 2003

Revised: September 11, 2012

VIRGINIA BOARD OF NURSING CODE OF CONDUCT

This Code of Conduct is a set of behavioral expectations intended to assure the public that the Board of Nursing and its individual members uphold the highest level of integrity and ethical standards. Board members and staff will conduct themselves in a manner that is respectful of the process and all participants, including board members, staff, licensees and the public during conferences, hearings, and general meetings.

The mission of the Board of Nursing is to ensure safe and competent practice of nursing to protect the health, safety and welfare of the citizens of the Commonwealth.

The following guidelines and protocol provide the foundation for assuring the public trust in professional regulation:

1. The Board of Nursing shall fulfill the oath taken to uphold and familiarize themselves with the laws of the State of Virginia, rules, Board of Nursing regulations, policies, guidance documents and procedures of nursing for the protection of the public that govern their service.
2. Being a member of the Board of Nursing is a privilege to serve the public.
3. The Board of Nursing shall provide an annual continuing education session support the ongoing effective and efficient work of the Board.
4. Board members shall disclose any actual or perceived conflict of interest and recuse themselves from those decisions, if deemed appropriate.
5. Board members shall strive to avoid any relationships, activity or position that may influence, directly or indirectly, the performance of his or her official duties as a board member.
6. Board members shall communicate to Board staff through the Executive Director; staff members communicate to the Board members through the President of the Board.
7. Board of Nursing members shall conduct themselves with the following guidelines and protocol while in official capacity as a member of the Board:
 - a. Members shall be on time for all sessions, preferably be present ten minutes before the opening session or meeting;
 - b. Members shall ensure that their demeanor and body language remains professional and respectful at all times;

- c. Members shall signal for recess by a red card or correspond with the President for any additional concerns;
- d. All electronic equipment will be off, including those on vibrate mode. The public will be advised to do the same;
- e. Members shall inspect all mailed materials against agenda and inform the chair prior to the opening of the session of any concerns;
- f. Members shall address respondent, board, staff and public by their last name and/or title and stay focused during the hearings or meetings in a fair, equitable, impartial and just manner.
- g. Members shall refrain from speeches during hearings and avoid repeating questions, unless a clear answer was not given;
- h. Members shall accept responsibility, accountability and resolution with respect and support for the decisions made by the Board;
- i. Members shall maintain confidentiality of all confidential documents, information and general Board matters;
- j. Members shall not speak or act for the Board of Nursing without authorization;
- k. Members shall not confer with licensee and/or legal counsel even if members know them personally.

**VIRGINIA BOARD OF NURSING
EDUCATION INFORMAL CONFERENCE COMMITTEE
MINUTES
November 1, 2018**

TIME AND PLACE: The meeting of the Education Informal Conference Committee was convened at 9:11 a.m. in Suite 201, Department of Health Professions 9960 Mayland Drive, Second Floor, Board Room 4, Henrico, Virginia.

MEMBERS PRESENT: Trula E. Minton, MS, RN
Mark Monson, Citizen Member

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director
Paula B. Saxby, RN, Ph.D., Deputy Executive Director
Beth Yates, Administrative Assistant
David Kazzie, Administrative Proceedings Division

CONFERENCES SCHEDULED:

REGISTERED NURSING AND PRACTICAL NURSING EDUCATION PROGRAMS

Chester Career College, PN Program, Chester US28103000

Candace Staton, BSN, RN, ACM-RN, Director of Nursing, and Ms. Angela Hayes, MS, RN, CHSE, CNE, Simulation Educator, Ms. Carolyn Williams, RN, BSN Instructor, were in attendance. The program was represented by legal counsel.

At 10:23 a.m. Mr. Monson moved that the Education Informal Conference Committee convene a closed meeting pursuant to §2.2-3711 (A) (27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Chester Career College, PN Program. Additionally, he moved that, Ms. Douglas, Dr. Saxby, Mr. Kazzie, and Ms. Yates attend the closed meeting because their presence in the closed meeting was deemed necessary.

The motion was seconded and carried unanimously. The Committee reconvened in open session at 11:42 a.m.

Mr. Monson moved that the Education Informal Conference Committee 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.

Action: Recommend to withdraw approval of Chester Career College to operate a practical nursing program and approval shall be STAYED and continue the practical nursing program at Chester Career College on conditional approval with terms and conditions as outlined in the separate recommendation dated November 7, 2018.

Mr. Kazzie left the meeting at 11.50 a.m.

Public Comment

Dr. Iris Mullins, Interim Director of Nursing, Sharon Barrett, Budget Director and Dr. Ken Cox, Dean representing Radford University addressed the Education Committee in regards to the college's merger with Jefferson College of Health Sciences, School of Nursing. The merger will take effect in July 2019. The last group of students to graduate from Jefferson College of Health Sciences will be in Spring 2021.

Request for Continued Faculty Exceptions

Fairfax County School of Practical Nursing, Fairfax, PN Program, US28108600

Jacqueline Portnoy, RN, Director of Nursing and Jennifer Makay, Program Manager were in attendance.

At 12:21 p.m. Mr. Monson moved that the Education Informal Conference Committee convene a closed meeting pursuant to §2.2-3711 (A) (27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Fairfax County School of Practical Nursing, PN Program. Additionally, he moved that, Ms. Douglas, Dr. Saxby, and Ms. Yates attend the closed meeting because their presence in the closed meeting was deemed necessary.

The motion was seconded and carried unanimously. The Committee reconvened in open session at 12:25 p.m.

Mr. Monson moved that the Education Informal Conference Committee 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.

Action: Recommend to approve the continued faculty exception contingent upon providing evidence to the Board of current and active enrollment in a baccalaureate nursing program.

Jefferson College of Health Sciences, Roanoke, BSN Program, US28507000
(Deferred from September 5, 2018 Meeting)

There were no representatives in attendance.

Action: Recommend to approve the request for continued faculty exception.

Program Status Update

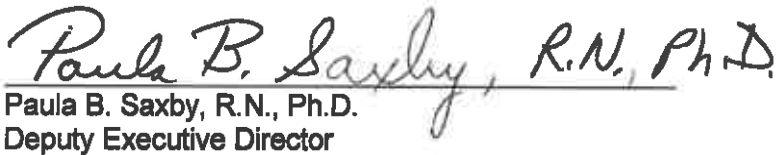
Dr. Saxby, Deputy Executive Director, presented the report regarding approval status, survey visits, and program changes to include the following:

- St. Michael College of Allied Health, Alexandria was granted full approval.
- Randolph-Macon College, Ashland, was granted initial approval to operate a Baccalaureate degree nursing program and permission to offer non-nursing courses prior to their initial approval survey visit.

Jefferson College of Health Sciences will be merging with Radford University in July 2019. The last group of students to graduate from Jefferson College of Health Sciences will be in Spring 2021.

Action: Recommend to accept the report as information.

Meeting adjourned at 12:40p.m.


Paula B. Saxby, R.N., Ph.D.
Deputy Executive Director

Copy of regulation for the Public Hearing

On

**Performance and supervision of laser hair removal
by Nurse Practitioners**



Logged in as

Elaine J. Yeatts

Proposed Text

Action: Supervision and direction of laser hair removal

Stage: Proposed

10/18/18 11:26 AM [latest] ▼

18VAC90-30-124

18VAC90-30-124. Direction and supervision of laser hair removal.

A. A nurse practitioner, as authorized pursuant to § 54.1-2957 of the Code of Virginia, may perform or supervise the performance of laser hair removal upon completion of training in the following:

1. Skin physiology and histology;
2. Skin type and appropriate patient selection;
3. Laser safety;
4. Operation of laser device to be used;
5. Recognition of potential complications and response to any actual complication resulting from a laser hair removal treatment; and
6. A minimum number of 10 proctored patient cases with demonstrated competency in treating various skin types.

B. Nurse practitioners who have been performing laser hair removal prior to (the effective date of this regulation) are not required to complete the training specified in subsection A of this section.

C. A nurse practitioner who delegates the practice of laser hair removal and provides supervision for such practice shall ensure the supervised person has completed the training required in subsection A of this section.

D. A nurse practitioner who performs laser hair removal or who supervises others in the practice shall receive ongoing training as necessary to maintain competency in new techniques and laser devices. The nurse practitioner shall ensure that persons the nurse practitioner supervises also receive ongoing training to maintain competency.

E. A nurse practitioner may delegate laser hair removal to a properly trained person under the nurse practitioner's direction and supervision. Direction and supervision shall mean that the nurse practitioner is readily available at the time laser hair removal is being performed. The supervising nurse practitioner is not required to be physically present but is required to see and evaluate a patient for whom the treatment has resulted in complications prior to the continuance of laser hair removal treatment.

F. Prescribing of medication shall be in accordance with § 54.1-3303 of the Code of Virginia.

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions
As of October 29, 2018**

Chapter		Action / Stage Information
[18 VAC 90 - 15]	Regulations Governing Delegation to an Agency Subordinate	<p><u>Implementing Result of Periodic review</u> [Action 5130]</p> <p>Fast-Track - <i>DPB Review in progress</i></p>
[18 VAC 90 - 19]	Regulations Governing the Practice of Nursing	<p><u>Clarification of 90-day authorization to practice</u> [Action 5058]</p> <p>Fast-Track - <i>At Governor's Office for 55 days</i></p>
[18 VAC 90 - 19]	Regulations Governing the Practice of Nursing	<p><u>Clinical nurse specialist requirement for registration</u> [Action 5059]</p> <p>Fast-Track - <i>At Governor's Office for 55 days</i></p>
[18 VAC 90 - 21]	Regulations for Medication Administration Training and Immunization Protocol	<p><u>Change in Title of Regulation</u> [Action 5131]</p> <p>Fast-Track - <i>DPB Review in progress</i> [Stage 8394]</p>
[18 VAC 90 - 25]	Regulations Governing Certified Nurse Aides	<p>Periodic review [Action 5149]</p> <p>Fast-Track - <i>AT Attorney General's Office</i> [Stage 8413]</p>
[18 VAC 90 - 26]	Regulations for Nurse Aide Education Programs	<p><u>Implementing Result of Periodic Review</u> [Action 5157]</p> <p>NOIRA - <i>At Secretary's Office for 7 days</i></p>
[18 VAC 90 - 30]	Regulations Governing the Licensure of Nurse Practitioners	<p><u>Autonomous practice</u> [Action 5132]</p> <p>Emergency/NOIRA - <i>At Secretary's Office for 13 days</i></p>
[18 VAC 90 - 30]	Regulations Governing the Licensure of Nurse Practitioners	<p><u>Supervision and direction of laser hair removal</u> [Action 4863]</p> <p>Proposed - <i>Register Date: 10/29/18</i> Comment from 10/29 to 12/28</p>
[18 VAC 90 - 40]	Regulations for Prescriptive Authority for Nurse Practitioners	<p><u>Elimination of separate license for prescriptive authority</u> [Action 4958]</p> <p>NOIRA - <i>Register Date: 7/23/18</i> <i>Board of Nursing adopted proposed in Sept</i> <i>Board of Medicine adopted proposed in Oct</i></p>
[18 VAC 90 - 40]	Regulations for Prescriptive Authority for Nurse Practitioners	<p><u>Prescribing of opioids</u> [Action 4797]</p> <p>Proposed - <i>Register Date: 7/9/18</i> <i>Board of Nursing to adopt final in Nov</i> <i>Board of Medicine adopted final in Oct</i></p>
[18 VAC 90 - 60]	Regulations Governing the Registration of Medication Aides	<p>Periodic review [Action 5140]</p> <p>Fast-Track - <i>DPB Review in progress</i> [Stage 8405]</p>

**Agenda Item: Final Regulatory Action on Prescribing of Opioids
and Buprenorphine by Nurse Practitioners**

Included in your agenda package are:

Copy of Comments on proposed regulations

Copy of summary of comment

Copy of proposed regulations with amendments

Proposed Action:

Adoption of final regulations as presented in agenda package and as
adopted by the Board of Medicine on October 18th

Boards of Medicine and Nursing

Summary of Public Comment on Regulations

Proposed regulations to replace emergency regulations for prescribing of opioids and buprenorphine by nurse practitioners were published on July 9, 2018 with comment requested until September 7, 2018. A public hearing was conducted on July 17, 2018. The following comments were received:

Commenter	Comment
Windy Y. Carson-Smith, Esq. Virginia Council of Nurse Practitioners	<ul style="list-style-type: none">• Regulations are onerous and impede nurse practitioner (NP) ability to properly treat and diagnose pain. Other states are using guidance documents for prescribing, such as the guidance from the Centers for Disease Control.• Recommended revamping rulemaking to focus on refining the prescribing process to: 1) limit and provide alternative to prescribing narcotics; 2) using the existing prescription monitoring program to inform prescribers; 3) develop and utilize existing evidence-based program which have proven to reduce the use of opioids for management of pain; and 4) support the Governor's multifaceted program to address opioid abuse and addiction. <p>The commenter provided a state-by-state chart on state response to opioid prescribing for those states that authorize NPs to prescribe Schedule II drugs.</p>
Kurtis S. Elward, M.D. President Medical Society of Virginia	<ul style="list-style-type: none">• Requests that the changes that were made in final regulations for physicians be also adopted in regulations for NPs, including an exclusion for sickle cell patients and changes in the frequency of urine drug screens• Supports continued supervision by a physician trained in substance abuse for medication-assisted treatment. NPs who are authorized to practice autonomously An equivalent of five years of practice with a SAMHSA-waivered physician would be required to practice collaboratively to prescribe buprenorphine until at least 2022.

Final regulations will be adopted by the Board of Medicine on October 18, 2018 and by the Board of Nursing on November 13, 2018.



VIA ELECTRONIC MAIL

**Elaine Yeatts
Senior Policy Analyst
Department of Health Professions
9960 Mayland Drive, Suite 300
Henrico, VA 23233**

July 31, 2018

Re: Prescribing of Opioids & Buprenorphine— Nurse Practitioner Regulations

Dear Ms. Yeatts:

I am writing to you as President of the Medical Society of Virginia (MSV) that serves as the voice for more than 30,000 physicians, residents, medical students, physician assistants and physician assistant students. Specifically, we wish to comment on the proposed text of the final regulations regarding prescribing of opioids and buprenorphine as it pertains to Nurse Practitioners. These regulations include 18 VAC 90-40-10 *et seq.*

You will recall that the MSV was instrumental in working with the Department of Health Professions (DHP) and many other stakeholders in developing the regulations governing prescribing of opioids and buprenorphine by licensees of the Board of Medicine. These Emergency Regulations became effective March 2017. At that point-in-time and throughout this process many efforts were made to ensure that the identical Emergency Regulations are in place for Physicians, Physician Assistants, Nurse Practitioners and Dentists. The proposal being considered by the Boards of Medicine and Nursing are to replace the Emergency Regulations for Nurse Practitioners (NPs) with final regulations.

When the Board of Medicine recently considered final regulations for Physicians and Physician Assistants, there were several changes that were accepted to improve patient care. These changes included an exclusion for patients being treated for sickle cell, anemia and changes to the frequency at which certain urine drug screenings are to be obtained.

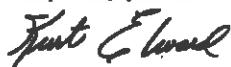
The Medical Society respectfully but strongly requests that the final regulations being considered for Nurse Practitioners be amended to mirror the changes made by the Board of Medicine to the final regulations, noted above. We continue to fully support consistency and uniformity of the final regulations for all prescribers. Substance abuse and medication-assisted treatment are complex medical conditions. Completing SAMSHA is only part of the foundation which clinicians should have in treating these individuals who usually have other comorbid medical, behavioral and social issues. Supervision by a physician trained in substance abuse care is vital to the optimal treatment of these high risk individuals.

Nurse Practitioners and Physician Assistants were recently granted the ability to apply for a waiver to prescribe buprenorphine under the Comprehensive Addiction and Recovery Act (CARA), which was signed into law in July 2016, allowing NPs and PAs to begin applications to treating up to 30 patients beginning in early 2017.¹ CARA requires that NPs and PAs are licensed under state law to prescribe schedule III, IV, or V medications for the treatment of pain; they complete at least 24 hours of training and "the nurse practitioner or physician assistant is supervised by, or works in collaboration with, a qualifying physician, if the nurse practitioner or physician assistant is required by State law to prescribe medications for the treatment of opioid use disorder in collaboration with or under the supervision of a physician."² Given that NPs will be required to complete 5 years of collaborative practice with the population before being able to practice autonomously, NPs would be required to practice collaboratively to prescribe buprenorphine until at least 2022. Given that the regulations for autonomous practice have yet to be finalized, it is paramount that we honor the intent of the CARA Act and encourage collaboration to best serve patients.

In addition to federal law requirements, the Department of Medical Assistance Services (DMAS) requires licensed physician assistants or nurse practitioners who have completed the 24 hours of training required by SAMSHA to obtain a waiver to prescribe buprenorphine for opioid use disorder to only prescribe buprenorphine pursuant to a practice agreement with a waived doctor of medicine or doctor of osteopathic medicine for Medicaid patients. [¶]

Thank you in advance for your consideration of the important points in this communication. Should you have any questions or if we may be a resource to DHP in this process, please do not hesitate to contact us.

Very truly yours,



Kurtis S. Elward, M.D., M.P.H., FAAFP

cc: Lauren Bates-Rowe, Assistant Vice President of Health Policy, MSV
Ralston C. King, Assistant Vice President of Government Affairs, MSV
W. Scott Johnson, Esquire, Hancock, Daniel & Johnson, PC
Tyler S. Cox, Manager, Government Affairs, Hancock, Daniel & Johnson, PC

[¶] <https://www.samhsa.gov/programs-campaigns/medication-assisted-treatment/training-materials-resources/qualify-np-pa-waivers>

[¶] <https://www.gpo.gov/fdsys/pkg/PLAW-114publ198/pdf/PLAW-114publ198.pdf>

[¶] <http://www.dmas.virginia.gov/files/links/330/Opioid%20Treatment%20Services%20Provider%20Manual%20Supplement.pdf>



August 1, 2018

Elaine Yeatts, Senior Policy Analyst
Virginia Department of Health Professions
9960 Mayland Drive
Henrico, Virginia 23233

Re: Comments of Virginia Council of Nurse Practitioners on Opioid Regulation

Dear Ms. Yeatts:

The following capture my verbal comments presented at the July 17th Board of Nursing meeting. Please let me know if you need any additional information from me.

Best regards,

Windy Y. Carson-Smith, Esq.
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Washington, DC 20001
202-239-8711
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wycarsonsmith@gmail.com

Thank you for the opportunity to respond to the proposed regulations on behalf of the Virginia Council of Nurse Practitioners. Given the existing opioid crisis in this country, we recognize a need for action. While we appreciate the Board of Medicine to address the opioid crisis, many states are adopting regulations to address this issue, none of which are quite as demanding or onerous as those currently being proposed. We believe that, if implemented, these regulations will impede nurse practitioners' ability to properly diagnose and treat pain. We have reviewed other states' regulations and have noted the following trends:

- Most states have developed multidisciplinary approaches to regulation¹ and rely on voluntary professional guidelines, such as the Washington State Guidelines for

¹ VCNP, Chart on Opioid Prescribing and NP Regulation, July 2018.



- Prescribing Opioids² or the CDC Guidelines for Prescribing Opioids for Pain³, or they have created their own using these documents as their base;
- Virtually every state, including Virginia, are using existing prescription monitoring programs and improving functionality. Many databases could not provide real time data – now most have that ability. As in the CDC guidelines, states are mandating review of patients' files in the database prior to prescribing;
 - Board and State legislatures focus on improving the ability of prescribers to prescribe mandating and teaching providers how to diagnose pain for prescribing;
 - In states with mandated limits on the dosages prescribed, most provide practitioners with the option of exceptions when the diagnosis requires such; and
 - In states where additional regulations have been imposed, those regulations are based on improving the education of the prescriber and mandate more continuing education for nurse prescribers.⁴

Finally, the approach taken by the Medical Board seems inconsistent with the multipronged approach currently advocated by Governor Northam and health-related agencies. This proposal seems out of sync with the omnibus policy approach currently being utilized and funded by state and federal government. And, there is no documentation that controlling prescribing in this limited, narrow fashion will reduce opioid drug use. For these and other reasons, we strongly recommend reconsideration of this approach to regulating nurse prescribers and advocate working with the Administration on a comprehensive multidisciplinary approach.

Prescribing Guidelines

Nursing confronted opioid and narcotic prescribing long before the opioid crisis. When nurse practitioners negotiated prescribing authority, many state regulators required additional pharmacotherapeutic and pharmacology courses and continuing education for nurses to prescribe Schedule II substances.⁵ States like New Jersey and Michigan specifically limited amounts of Schedule II drugs nurses could prescribe, while others limited Schedule II authority for nurse prescribers altogether.⁶ When the opioid crisis emerged, state boards of nursing proactively reviewed those regulations, provided additional courses and workshops and worked both independently and with other health professions to develop guidelines and tools to address this crisis.

² Interagency Guideline on Prescribing Opioids for Pain, <http://www.agencymeddirectors.wa.gov/files/2015amdopiodguideline.pdf>

³ CDC Guideline for Prescribing Opioids for Chronic Pain — United States, 2016, <https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm>

⁴ See attached chart, Opioid Prescribing and NP Regulation

⁵ Reference to my table.

⁶ Nurse table



Omnibus State opioid prescribing guidelines have been developed in stages. Earlier guides (pre-2005) were developed with specific recommendations detailing dosages for specific conditions.⁷ Early state guidelines focused on how prescribers could safely and effectively prescribe and manage chronic opioid analgesic therapy (COAT). More recent data and guidelines suggest that the focus should also be on preventing the inappropriate transition from acute and subacute opioid use to chronic opioid use and avoiding COAT altogether when other alternatives for treating pain may be equally effective and safer in the long-term.

Like the Washington Interagency and the CDC Guidelines, the emergency Virginia guidelines are detailed, cumbersome, and have specific limitations on the patient population they cover. The CDC guideline addresses primary care clinicians who are treating patients with chronic pain (i.e., pain lasting >3 months or past the time of normal tissue healing) in outpatient settings. Prescriptions by primary care clinicians account for nearly half of all dispensed opioid prescriptions, and the growth in prescribing rates among these clinicians has been above average.⁸ The emergency Virginia guidelines address pain associated with specific disease, but do not and cannot cover all diseases, pain, and patient response. For example, a pediatric cancer patient's pain and an adult cancer patient's pain are vastly different. Early stage cancer versus end stage cancer patients differ considerably. Should the opioid prescribing for pain differ based on care setting? Should I receive a differing dosage if I choose hospice or home care over a hospital setting?

Although the focus is on primary care clinicians, because clinicians work within team-based care, the recommendations refer to and promote integrated pain management and collaborative working relationships with other providers (e.g. behavioral health providers, pharmacists, and pain management specialists). All regulators and policy makers acknowledge that the transition from the use of opioid therapy for acute pain to chronic pain is hard to predict and identify, and virtually all guidelines proposed or used by states are intended to inform clinicians who are considering prescribing opioid pain medication for painful conditions that can or have become chronic. Few guidelines address generational distinctions in pain and pain management.

Both Board guidelines, which are in excess of 50 pages long, stress their limitations on setting specific parameters for drugs and focus instead on teaching the prescribing process.

⁷ Federation of State Medical Boards chart on State Pain Regulation, <http://www.fsmb.org/globalassets/advocacy/key-issues/pain-management-by-state.pdf>

⁸ Levy B, Paulozzi L, Mack KA, Jones CM. Trends in opioid analgesic-prescribing rates by specialty, U.S., 2007–2012. *Am J Prev Med* 2015;49:409–13.



As noted in both, when the ability to properly diagnose and prescribe is developed, there seems to be a diminished and more precise usage of opioids by all providers. While we appreciate the Board of Medicine's promulgation of similar regulations for the Board of Medicine, we suggest a method for ongoing review of the regulations to ensure that options exist to allow prescribers to adequately diagnose and prescribe.

The Governor's Multifaceted Program to Address Opioid Crisis in Virginia

Since entering office, Governor Northam has been actively engaged in the battle to contain the opioid crisis. Almost immediately after election, Virginia was tapped by the National Governor's Association to participate in a workgroup designed to study and address the opioid crisis. Shortly thereafter, Virginia received another \$9.76 million in federal grant funding to help fight the opioid epidemic. This is the second consecutive year that the Department of Behavioral Health and Developmental Services (DBHDS) received a State Targeted Response Grant from the Substance Abuse and Mental Health Services Administration (SAMHSA), an agency of the U.S. Department of Health and Human Services. The continued funding will help Virginia's Community Services Boards (CSBs) provide many of the services and supports needed to fight the opioid crisis, including prevention, treatment, and recovery services for Virginians struggling with addiction across the Commonwealth.

The grant money will be used to continue efforts from the previous year to purchase medication, support medical staff necessary to prescribe and oversee clinical treatment, and to remove barriers to accessing treatment, such as transportation. These funds will also help provide the counseling and case management necessary to help individuals with opioid addiction stabilize their lives and begin the process of recovery.

This year's grant permits additional resources to be directed toward prevention of opioid use through strengthening existing local community coalitions that have formed across the Commonwealth to address addiction and rising drug overdose rates.

Grant funds will be used to fight the opioid epidemic in the following ways:

- DBHDS will allocate roughly half of the total grant funds to 24 locally-run community services boards—the organizations that are responsible for providing community-based behavioral health services. This will increase access to medically assisted treatment (MAT), which is the evidence-based gold standard for treatment of opioid addiction.
- \$1.8 million will be used to support new and existing evidence-based strategic prevention framework grantees. These grantees, all of which are local community



coalitions, will address community gaps to prevent further drug and heroin abuse. The prevention funding will also support media campaigns in communities most impacted by the overdose crisis in Virginia.

- The remaining funding will support the development of partnerships with hospitals that will connect individuals who overdose with peers in recovery as well as continued funding of warm lines that offer peer support and information to callers.

The 24 CSBs were selected as part of the grant application, based on statistical measures of need. Amounts to each community are currently being determined and will be based on specific needs as assessed by overdose rates and other factors.

MAT and other addiction treatments are part of DBHDS' System Transformation Excellence and Performance (STEP-VA) plan, an innovative program for individuals with behavioral health disorders featuring a uniform set of required services, consistent quality measures, and improved oversight in all Virginia communities. The next phases of STEP-VA include completing the work required for all of Virginia's CSBs to implement Same Day Access, the installment of primary care screening and tight linkages to medical providers in all CSBs, addressing existing gaps in outpatient services, and including ensuring ongoing medication assisted treatment for substance use disorders.

The Virginia Commonwealth University School of Medicine's Department of Health Behavior and Policy evaluated the results of the program's first nine months, from April through December 2017. Highlights include:

- 16,600 Medicaid members received treatment for substance use disorder, a nearly two-thirds increase over the same nine months of the previous year.
- Of those, more than 10,500 members were treated for opioid addiction, a 51 percent increase from the same period of 2016.
- The total number of prescriptions for opioid pain medications for Medicaid members declined by nearly one-third over the evaluation period.
- Hospital emergency department visits by Medicaid members due to opioid use declined by nearly one-third, to 3,100 in the nine-month study period in 2017.

ARTS, Addictions Recovery Treatment Systems, encompasses a variety of innovative strategies and new models of care that have significantly increased treatment capacity. Virginia was the fourth state to obtain permission from federal health officials to use Medicaid funds for residential treatment facilities with more than 16 beds, greatly increasing access to residential services. It is one of the first states in the nation to fully integrate its substance use treatment services into managed care plans along with physical and mental health services.



“Other states and national policymakers recognize the progress we are making in Virginia to develop innovative treatment and recovery solutions,” said Dr. Jennifer Lee, DMAS Director. “The new treatment models developed through the ARTS program are increasing access to services across the Commonwealth. Just as important, these new models are grounded in evidence-based practices that ensure the most effective care is available for our citizens.”

The ARTS program strengthened qualifications for providers and increased reimbursement rates for those who follow research-guided treatment regimens. The Virginia Department of Health (VDH) and the Virginia Department of Behavioral Health and Developmental Services (DBHDS)

And, Governor Ralph Northam recently announced interconnectivity between the Commonwealth's secure Prescription Monitoring Program (PMP) database and North Carolina's Controlled Substance Reporting System, RxSentry. As a result, pharmacists and prescribers in both states will be able to see the prescription history of patients who may utilize health providers or pharmacists in both jurisdictions, improving the quality of care and decreasing the risk of prescription drug diversion. The interoperability is provided through Prescription Monitoring Program Interconnect™ (PMPi), a service of the National Association of Boards of Pharmacy (NABP). Other states interoperable with Virginia include: Alabama, Arizona, Connecticut, Delaware, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Washington D.C., and West Virginia. These states are all part of a national network of 43 PMPs supported by NABP's PMPi.

In addition to expanding the interconnectivity of the PMP, the Commonwealth currently offers grants to promote integration of the PMP into electronic health records and other health platforms to promote use of the database. And Virginia health regulatory boards that license practitioners authorized to prescribe opioids to their patients and law enforcement officers also use the PMP to support investigations related to doctor shopping, diversion, and inappropriate prescribing and dispensing.

Conclusion

The Governor and other states' legislative and regulatory bodies are structuring their responses to the opioid crisis as multidisciplinary and patient-focused. They are using evidence-based strategies and approaches. They are using new and existing tools and publications to improve prescribing.



We support this approach and we strongly recommend review and revamping of the rulemaking to focus on:

- Refining the prescribing process to limit and provide alternatives to prescribing narcotics
- Using the existing prescription monitoring program (PMP) to inform prescribers of patients' drug history
- Develop and utilize existing evidence-based programs which have proven that with additional education and prescribing standards, reductions in the use of opioids for the management of pain occurs; and
- Support the Administration's multifaceted program to address opioid abuse and addiction.

Per my testimony, please find enclosed the state-by-state chart on state responses to opioid prescribing. It is limited to those states which have granted nurses the authority to prescribe Schedule II drugs.

Again, thank you for the opportunity to testify and to provide written testimony.

End Notes

Deniece A. Jukiewicz, Aisha Alhofaian, Zenora Thompson, Faye A. Gary, Reviewing opioid use, monitoring, and legislature: Nursing perspectives, International Journal of Nursing Sciences, 4:4 (2017), 430-436.

<https://www.sciencedirect.com/science/article/pii/S2352013217300571>

L. Leahy, The opioid epidemic: what does it mean for nurses?
J Psychosoc Nurs Ment Health Serv, 55 (1) (2017), pp. 18-23, [10.3928/02793695-20170119-03](https://doi.org/10.3928/02793695-20170119-03)

Randall Hudspeth, Understanding Opioid Prescribing Practices of Advanced Practice Registered Nurses, (2010) Journal of Nursing Regulation, 1 (3), pp. 28-32.

Project 5096 – Final adoption

BOARDS OF MEDICINE AND NURSING

Prescribing of opioids

Part IV

Disciplinary Provisions

18VAC90-30-220. Grounds for disciplinary action against the license of a licensed nurse practitioner.

The boards may deny licensure or relicensure, revoke or suspend the license, or take other disciplinary action upon proof that the nurse practitioner:

1. Has had a license or multistate privilege to practice nursing in this Commonwealth or in another jurisdiction revoked or suspended or otherwise disciplined;
2. Has directly or indirectly represented to the public that the nurse practitioner is a physician, or is able to, or will practice independently of a physician;
3. Has exceeded the authority as a licensed nurse practitioner;
4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing or nurse practitioners;
5. Has become unable to practice with reasonable skill and safety to patients as the result of a physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals or any other type of material;
6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration or distribution of drugs; or

7. Has failed to comply with continuing competency requirements as set forth in 18VAC90-30-105;

8. Has willfully or negligently breached the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful; or

9. Has engaged in unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program, the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

Part I

General Provisions

18VAC90-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances containing an opioid may be prescribed for no more than three months.

"Boards" means the Virginia Board of Medicine and the Virginia Board of Nursing.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957 of the Code of Virginia.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances containing an opioid may be prescribed for a period greater than three months.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"FDA" means the U.S. Food and Drug Administration.

"MME" means morphine milligram equivalent.

"Nonprofit health care clinics or programs" means a clinic organized in whole or in part for the delivery of health care services without charge or when a reasonable minimum fee is charged only to cover administrative costs.

"Nurse practitioner" means an advanced practice registered nurse who has met the requirements for licensure as a nurse practitioner as stated in 18VAC90-30.

"Practice agreement" means a written or electronic agreement jointly developed by the patient care team physician and the nurse practitioner for the practice of the nurse practitioner that also describes the prescriptive authority of the nurse practitioner, if applicable. For a nurse practitioner licensed in the category of certified nurse midwife, the practice agreement is a statement jointly developed with the consulting physician.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

"SAMHSA" means the federal Substance Abuse and Mental Health Services Administration.

Part V

Management of Acute Pain

18VAC90-40-150. Evaluation of the patient for acute pain.

A. The requirements of this part shall not apply to:

1. The treatment of acute or chronic pain related to (i) cancer, (ii) [sickle cell, (iii)] a patient in hospice care, or [(iii) (iv)] a patient in palliative care;

2. The treatment of acute pain during an inpatient hospital admission or in a nursing home or an assisted living facility that uses a sole source pharmacy; or

3. A patient enrolled in a clinical trial as authorized by state or federal law.

B. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. If an opioid is considered necessary for the treatment of acute pain, the practitioner shall give a short-acting opioid in the lowest effective dose for the fewest possible days.

C. Prior to initiating treatment with a controlled substance containing an opioid for a complaint of acute pain, the prescriber shall perform a history and physical examination appropriate to the complaint, query the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia, and conduct an assessment of the patient's history and risk of substance misuse as a part of the initial evaluation.

18VAC90-40-160. Treatment of acute pain with opioids.

A. Initiation of opioid treatment for patients with acute pain shall be with short-acting opioids.

1. A prescriber providing treatment for a patient with acute pain shall not prescribe a controlled substance containing an opioid in a quantity that exceeds a seven-day supply as determined by the manufacturer's directions for use, unless extenuating circumstances are clearly documented in the medical record. This shall also apply to prescriptions of a controlled substance containing an opioid upon discharge from an emergency department.

2. An opioid prescribed as part of treatment for a surgical procedure shall be for no more than 14 consecutive days in accordance with manufacturer's direction and within the immediate perioperative period, unless extenuating circumstances are clearly documented in the medical record.

B. Initiation of opioid treatment for all patients shall include the following:

1. The practitioner shall carefully consider and document in the medical record the reasons to exceed 50 MME per day.

2. Prior to exceeding 120 MME per day, the practitioner shall document in the medical record the reasonable justification for such doses or refer to or consult with a pain management specialist.

3. Naloxone shall be prescribed for any patient when risk factors of prior overdose, substance misuse, doses in excess of 120 MME per day, or concomitant benzodiazepine are present.

C. Due to a higher risk of fatal overdose when opioids are used with benzodiazepines, sedative hypnotics, carisoprodol, and tramadol [(an atypical opioid)] , the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

D. Buprenorphine is not indicated for acute pain in the outpatient setting, except when a prescriber who has obtained a SAMHSA waiver is treating pain in a patient whose primary diagnosis is the disease of addiction.

18VAC90-40-170. Medical records for acute pain.

The medical record shall include a description of the pain, a presumptive diagnosis for the origin of the pain, an examination appropriate to the complaint, a treatment plan, and the medication prescribed or administered to include the date, type, dosage, and quantity prescribed or administered.

Part VI

Management of Chronic Pain

18VAC90-40-180. Evaluation of the chronic pain patient.

A. The requirements of this part shall not apply to:

1. The treatment of chronic pain related to (i) cancer, (ii) a patient in hospice care, or (iii) a patient in palliative care;
2. The treatment of chronic pain during an inpatient hospital admission or in a nursing home or an assisted living facility that uses a sole source pharmacy; or
3. A patient enrolled in a clinical trial as authorized by state or federal law.

B. Prior to initiating management of chronic pain with a controlled substance containing an opioid, a medical history and physical examination, to include a mental status examination, shall be performed and documented in the medical record, including:

1. The nature and intensity of the pain;
2. Current and past treatments for pain;
3. Underlying or coexisting diseases or conditions;
4. The effect of the pain on physical and psychological function, quality of life, and activities of daily living;
5. Psychiatric, addiction, and substance misuse histories of the patient and any family history of addiction or substance misuse;
6. A urine drug screen or serum medication level;
7. A query of the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia;

8. An assessment of the patient's history and risk of substance misuse; and

9. A request for prior applicable records.

C. Prior to initiating opioid analgesia for chronic pain, the practitioner shall discuss with the patient the known risks and benefits of opioid therapy and the responsibilities of the patient during treatment to include securely storing the drug and properly disposing of any unwanted or unused drugs. The practitioner shall also discuss with the patient an exit strategy for the discontinuation of opioids in the event they are not effective.

18VAC90-40-190. Treatment of chronic pain with opioids.

A. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids.

B. In initiating opioid treatment for all patients, the practitioner shall:

1. Carefully consider and document in the medical record the reasons to exceed 50 MME per day;

2. Prior to exceeding 120 MME per day, the practitioner shall document in the medical record the reasonable justification for such doses or refer to or consult with a pain management specialist;

3. Prescribe naloxone for any patient when risk factors of prior overdose, substance misuse, doses in excess of 120 MME per day, or concomitant benzodiazepine are present; and

4. Document the rationale to continue opioid therapy every three months.

C. Buprenorphine mono-product in tablet form shall not be prescribed for chronic pain.

D. Due to a higher risk of fatal overdose when opioids, including buprenorphine, are given with other opioids, benzodiazepines, sedative hypnotics, carisoprodol, and tramadol [(an atypical

opioid)], the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

E. The practitioner shall regularly evaluate for opioid use disorder and shall initiate specific treatment for opioid use disorder, consult with an appropriate health care provider, or refer the patient for evaluation for treatment if indicated.

18VAC90-40-200. Treatment plan for chronic pain.

A. The medical record shall include a treatment plan that states measures to be used to determine progress in treatment, including pain relief and improved physical and psychosocial function, quality of life, and daily activities.

B. The treatment plan shall include further diagnostic evaluations and other treatment modalities or rehabilitation that may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

C. The prescriber shall record in the medical records the presence or absence of any indicators for medication misuse or diversion and take appropriate action.

18VAC90-40-210. Informed consent and agreement for treatment of chronic pain.

A. The practitioner shall document in the medical record informed consent, to include risks, benefits, and alternative approaches, prior to the initiation of opioids for chronic pain.

B. There shall be a written treatment agreement, signed by the patient, in the medical record that addresses the parameters of treatment, including those behaviors that will result in referral to a higher level of care, cessation of treatment, or dismissal from care.

C. The treatment agreement shall include notice that the practitioner will query and receive reports from the Prescription Monitoring Program and permission for the practitioner to:

1. Obtain urine drug screen or serum medication levels, when requested; and

2. Consult with other prescribers or dispensing pharmacists for the patient.

D. Expected outcomes shall be documented in the medical record including improvement in pain relief and function or simply in pain relief. Limitations and side effects of chronic opioid therapy shall be documented in the medical record.

18VAC90-40-220. Opioid therapy for chronic pain.

A. The practitioner shall review the course of pain treatment and any new information about the etiology of the pain or the patient's state of health at least every three months.

B. Continuation of treatment with opioids shall be supported by documentation of continued benefit from the prescribing. If the patient's progress is unsatisfactory, the practitioner shall assess the appropriateness of continued use of the current treatment plan and consider the use of other therapeutic modalities.

C. Practitioners shall check the Prescription Monitoring Program at least every three months after the initiation of treatment.

D. The practitioner shall order and review a urine drug screen or serum medication levels at the initiation of chronic pain management and [~~at least every three months for the first year of treatment thereafter randomly at the discretion of the practitioner, and but~~] at least [~~every six months thereafter once a year~~] .

E. The practitioner shall regularly evaluate for opioid use disorder and shall initiate specific treatment for opioid use disorder, consult with an appropriate health care provider, or refer the patient for evaluation for treatment if indicated.

18VAC90-40-230. Additional consultation.

A. When necessary to achieve treatment goals, the prescriber shall refer the patient for additional evaluation and treatment.

B. When a practitioner makes the diagnosis of opioid use disorder, treatment for opioid use disorder shall be initiated or the patient shall be referred for evaluation and treatment.

18VAC90-40-240. Medical records.

The prescriber shall keep current, accurate, and complete records in an accessible manner and readily available for review to include:

- 1. The medical history and physical examination;**
- 2. Past medical history;**
- 3. Applicable records from prior treatment providers or any documentation of attempts to obtain those records;**
- 4. Diagnostic, therapeutic, and laboratory results;**
- 5. Evaluations and consultations;**
- 6. Treatment goals;**
- 7. Discussion of risks and benefits;**
- 8. Informed consent and agreement for treatment;**
- 9. Treatments;**
- 10. Medications, including date, type, dosage and quantity prescribed, and refills;**
- 11. Patient instructions; and**
- 12. Periodic reviews.**

Part VII

Prescribing of Buprenorphine

18VAC90-40-250. General provisions.

A. Practitioners engaged in office-based opioid addiction treatment with buprenorphine shall have obtained a waiver from SAMHSA and the appropriate U.S. Drug Enforcement Administration registration.

B. Practitioners shall abide by all federal and state laws and regulations governing the prescribing of buprenorphine for the treatment of opioid use disorder.

C. Nurse practitioners who have obtained a SAMHSA waiver shall only prescribe buprenorphine for opioid addiction pursuant to a practice agreement with a SAMHSA-waivered doctor of medicine or doctor of osteopathic medicine [unless the nurse practitioner has been authorized by the boards for autonomous practice] .

D. Practitioners engaged in medication-assisted treatment shall either provide counseling in their practice or refer the patient to a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, who has the education and experience to provide substance misuse counseling. The practitioner shall document provision of counseling or referral in the medical record.

18VAC90-40-260. Patient assessment and treatment planning.

A. A practitioner shall perform and document an assessment that includes a comprehensive medical and psychiatric history, substance misuse history, family history and psychosocial supports, appropriate physical examination, urine drug screen, pregnancy test for women of childbearing age and ability, a check of the Prescription Monitoring Program, and, when clinically indicated, infectious disease testing for human immunodeficiency virus, hepatitis B, hepatitis C, and tuberculosis.

B. The treatment plan shall include the practitioner's rationale for selecting medication assisted treatment, patient education, written informed consent, how counseling will be accomplished, and a signed treatment agreement that outlines the responsibilities of the patient and the practitioner.

18VAC90-40-270. Treatment with buprenorphine.

A. Buprenorphine without naloxone (buprenorphine mono-product) shall not be prescribed except:

1. When a patient is pregnant;

2. When converting a patient from methadone or buprenorphine mono-product to buprenorphine containing naloxone for a period not to exceed seven days;

3. In formulations other than tablet form for indications approved by the FDA; or

4. For patients who have a demonstrated intolerance to naloxone; such prescriptions for the mono-product shall not exceed 3.0% of the total prescriptions for buprenorphine written by the prescriber, and the exception shall be clearly documented in the patient's medical record.

B. Buprenorphine mono-product tablets may be administered directly to patients in federally licensed opiate treatment programs. With the exception of those conditions listed in subsection A of this section, only the buprenorphine product containing naloxone shall be prescribed or dispensed for use off site from the program.

C. The evidence for the decision to use buprenorphine mono-product shall be fully documented in the medical record.

D. Due to a higher risk of fatal overdose when buprenorphine is prescribed with other opioids, benzodiazepines, sedative hypnotics, carisoprodol, and tramadol [(an atypical opioid)], the

prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

E. Prior to starting medication-assisted treatment, the practitioner shall perform a check of the Prescription Monitoring Program.

F. During the induction phase, except for medically indicated circumstances as documented in the medical record, patients should be started on no more than eight milligrams of buprenorphine per day. The patient shall be seen by the prescriber at least once a week.

G. During the stabilization phase, the prescriber shall increase the daily dosage of buprenorphine in safe and effective increments to achieve the lowest dose that avoids intoxication, withdrawal, or significant drug craving.

H. Practitioners shall take steps to reduce the chances of buprenorphine diversion by using the lowest effective dose, appropriate frequency of office visits, pill counts, and checks of the Prescription Monitoring Program. The practitioner shall also require urine drug screens or serum medication levels at least every three months for the first year of treatment and at least every six months thereafter.

I. Documentation of the rationale for prescribed doses exceeding 16 milligrams of buprenorphine per day shall be placed in the medical record. Dosages exceeding 24 milligrams of buprenorphine per day shall not be prescribed.

J. The practitioner shall incorporate relapse prevention strategies into counseling or assure that they are addressed by a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, who has the education and experience to provide substance abuse counseling.

18VAC90-40-280. Special populations.

A. Pregnant women may be treated with the buprenorphine mono-product, usually 16 milligrams per day or less.

B. Patients younger than the age of 16 years shall not be prescribed buprenorphine for addiction treatment unless such treatment is approved by the FDA.

C. The progress of patients with chronic pain shall be assessed by reduction of pain and functional objectives that can be identified, quantified, and independently verified.

D. Practitioners shall (i) evaluate patients with medical comorbidities by history, physical exam, and appropriate laboratory studies and (ii) be aware of interactions of buprenorphine with other prescribed medications.

E. Practitioners shall not undertake buprenorphine treatment with a patient who has psychiatric comorbidities and is not stable. A patient who is determined by the practitioner to be psychiatrically unstable shall be referred for psychiatric evaluation and treatment prior to initiating medication-assisted treatment.

18VAC90-40-290. Medical records for opioid addiction treatment.

A. Records shall be timely, accurate, legible, complete, and readily accessible for review.

B. The treatment agreement and informed consent shall be maintained in the medical record.

C. Confidentiality requirements of 42 CFR Part 2 shall be followed.