

**VIRGINIA BOARD OF NURSING
MINUTES
March 19, 2019**

- TIME AND PLACE:** The meeting of the Board of Nursing was called to order at 9:03 A.M. on March 19, 2019, in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- PRESIDING:** Louise Hershkowitz, CRNA, MSHA; President
- BOARD MEMBERS PRESENT:**
Jennifer Phelps, BS, LPN, QMHPA; First Vice President
Marie Gerardo, MS, RN, ANP-BC; Second Vice President
Laura Freeman Cei BS, LPN, CCRP
Margaret J. Friedenberg, Citizen Member
Ann Tucker Gleason, PhD, Citizen Member
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Trula Minton, MS, RN
Meenakshi Shah, BA, RN
- MEMBERS ABSENT:** Joyce A. Hahn, PhD, RN, NEA-BC, FNAP, FAAN
Mark D. Monson, Citizen Member
Michelle D. Hereford, MSHA, RN, FACHE – **resigned as of 12/31/2019**
Grace Thapa, DNP, FNP-BC, AE-E – **resigned as of 12/31/2019**
- STAFF PRESENT:** Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Jodi P. Power, RN, JD; Senior Deputy Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Paula B. Saxby, PhD, RN; Deputy Executive Director for Education
Jacquelyn Wilmoth, RN, MSN, Nursing Education Program Manager
Stephanie Willinger; Deputy Executive Director for Licensing
Patricia L. Dewey, RN, BSN; Discipline Case Manager
Lelia Claire Morris, RN, LNHA; Discipline Case Manager
Ann Tiller, Compliance Manager
Huong Vu, Executive Assistant
- OTHERS PRESENT:** Charis Mitchell, Assistant Attorney General, Board Counsel
David E. Brown, DO, Department of Health Professions Director
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
- IN THE AUDIENCE:** Tyler Cox, Medical Society of Virginia (MSV)
Jerry J. Gentile, Department of Planning Budget (DPB)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Michelle Parr, DNP Student from Samford University
Kimberly Farley, Old Dominion University Student
- ESTABLISHMENT OF A QUORUM:**

Ms. Hershkowitz asked Board Members and Staff to introduce themselves. With 10 members present, a quorum was established.

ANNOUNCEMENTS:

Ms. Hershkowitz highlighted the announcements on the agenda.

- Leila “Claire” Morris, RN, LNHA started the RN Discipline Case Manager position on February 11, 2019.
- Jacquelyn Wilmoth, RN, MSN started the Nursing Education Program Manager position on February 11, 2019.
- Paula Saxby’s retirement celebration is scheduled for Friday, April 26, 2019, starting at 2:00 pm.

UPCOMING MEETINGS:

The upcoming meetings listed on the agenda:

- NLC Midyear Meeting is scheduled for March 25, 2019 in San Antonio, TX. Ms. Douglas will attend as a member of the NCSBN Board of Directors for Area III.
- NCSBN Midyear Meeting is scheduled for March 26-28, 2019 in San Antonio, TX. Ms. Phelps, Ms. Douglas and Ms. Power will attend.
- 2019 NCSBN APRN Roundtable Meeting is scheduled for April 9, 2019 in Rosemont, IL. Ms. Hershkowitz and Ms. Douglas will attend.
- APRN Consensus Forum is scheduled for April 10, 2019 in Rosemont, IL. Ms. Hershkowitz and Ms. Douglas will attend.
- The Committee of the Joint Boards of Nursing and Medicine formal hearing is scheduled for Wednesday, April 10, 2019 at 9:00 am in Board Room 2.
- NCSBN Board of Directors Meeting is scheduled for May 6-8, 2019 in Rosemont, IL. Ms. Douglas will attend as a member of the NCSBN Board of Directors for Area III.
- Dr. Hills has accepted the Deputy Executive Director for Education position.

ORDERING OF AGENDA:

Ms. Hershkowitz asked staff to provide additions and/or modifications to the Agenda.

Ms. Douglas noted that today is Dr. Saxby’s last Board meeting as she will retire as of May 1, 2019. Her retirement celebration is set for Friday, April 26, 2019. All Board members are invited.

Ms. Douglas added that Dr. Hills has accepted the Deputy Executive Director for Education position.

Ms. Douglas noted that there will be no business meeting for the Committee of the Joint Boards of Nursing and Medicine on April 10, 2019. She added that there will be a formal hearing only.

CONSENT AGENDA: Ms. Douglas removed the Committee of the Joint Boards of Nursing and Medicine February 13, 2019 Business Meeting minutes (**C5**) from the consent agenda.

Dr. McQueen-Gibson moved to accept the consent agenda as presented. The motion was seconded and carried unanimously.

Consent Agenda

B1 January 28, 2019 Board of Nursing Officer Meeting – Ms. Hershkowitz

B2 January 28, 2019 Panel – Ms. Phelps

B3 January 29, 2019 Board of Nursing Business Meeting – Ms. Hershkowitz

B4 January 29, 2019 CORE Committee Meeting minutes - Dr. McQueen-Gibson

B5 January 30, 2019 Possible Summary Suspension Consideration – Ms. Hershkowitz

B6 January 30, 2019 Panel A – Ms. Hershkowitz

B7 January 30, 2019 Panel B – Ms. Gerardo

B8 January 31, 2019 Panel – Ms. Hershkowitz

B9 February 20, 2019 Summary Suspension Telephone Conference Call – Ms. Hershkowitz

B10 February 25, 2019 Reconsideration of a Board Order Telephone Conference Call – Ms. Hershkowitz

B11 February 28, 2019 Summary Suspension Telephone Conference Call – Ms. Hershkowitz

C1 Agency Subordinate Tracking Log

C2 Financial Report as of January 31, 2019

C3 Board of Nursing Monthly Tracking Log

C5 The Committee of the Joint Boards of Nursing and Medicine February 13, 2019 **Formal Hearing Minutes** – Ms. Gerardo

DIALOGUE WITH DHP
DIRECTOR:

Dr. Brown reported the following:

Cannabidiol Issues (CBD and THC-A oils) - 2018 legislation approved prescribing of the oils by any physician for any condition. There are five facilities throughout Virginia for the production of CBD and THC-A oils, which will be produced by the end of 2019. This year the bill included authorization for licensed physician assistants and licensed nurse practitioners to issue a written certification for use of these oils. The CBD and THC-A oils at the store are derived from Hemp that was manufactured from another state. CBD and THC-A oils produced by facilities regulated by the Board of Pharmacy in Virginia are more potent and will be tested.

DHP work after the Legislation –

- ❖ Music Therapy Licensure – proposed to be under the Board of Medicine and was referred to Healthcare Workforce Data Center (HWDC) to research the need for licensure.
- ❖ HB1970 Telemedicine – DHP worked with Patron of the bill to establish a workgroup which will convene in the Fall of 2019 for discussion.
- ❖ DHP is to look at barriers to practice for foreign trained practitioners. Legislation was introduced this year but failed. A workgroup will be convened and will look at how Board of Medicine and Board of Nursing process the application for licensure by the foreign trained practitioners.
- ❖ Conversion Therapy – legislation was introduced in 2018 but failed. However, a workgroup was established in 2018 to address this issue through regulation. The Board of Pharmacy, Board of Social Work and Board of Counseling are moving forward with Guidance Documents in combination with existing regulations. Dr. Brown noted that Board of Medicine and Board of Nursing may want to consider as they are impacted.

Change in Board Member Badge Policy – Dr. Brown deferred this matter to Ms. Douglas. Ms. Douglas stated that in response to Board Member reaction regarding Board member badge policy, DHP has made changes to the policy to issue the badge to the board member for the duration of their appointment term. Ms. Douglas added that additional badges will be obtained for use by board members who conduct probable cause review on the 3rd floor and must be returned to staff at the end of the day.

Ms. Hershkowitz thanked Dr. Brown for listening to the Board members' concerns.

Ms. Douglas stated that she has asked Caroline Juran, Board of Pharmacy Executive Director, to speak about CBD and THC-A oils at the next Board member training. Ms. Douglas noted that staff has been receiving increased inquiries on the topic. Ms. Douglas added that she will join Ms. Juran in attending the School Nurse Conference in April 30, 2019 to speak about these issues.

**DISPOSITION OF
MINUTES:**

**C5 the Committee of the Joint Boards of Nursing and Medicine
February 13, 2019 Business Meeting minutes**

Ms. Gerardo reviewed the topics covered at the meeting. Dr. Hills noted that the Policy Forum in the minutes was revised to indicate that the reports will be posted on the DHP website upon approval.

Ms. Minton moved to accept the Committee of the Joint Boards of Nursing and Medicine February 13, 2019 Business Meeting Minutes as presented. The motion was seconded and carried unanimously.

REPORTS:

C4 Executive Director Report:

Ms. Douglas highlighted her written report and added:

- **Paperless Licensing** – DHP is moving forward with paperless licensing effective October 1, 2019. Licensees will receive an initial license in paper form without an expiration date. Upon renewal, licensees will not receive a paper license. Verification of current licensure status may be obtained via License Lookup serving as primary source verification. Licensees who wish to obtain a paper license can do so by paying a duplicate fee. DHP will be using security enhanced papers for the licenses to eliminate fraud. She added that this will decrease administrative time and be a huge cost saving.
- **Autonomous Practice for Nurse Practitioners** – applications went live on January 7, 2019. 257 applications received thus far and 151 issued. Ms. Douglas and Dr. Hills presented information regarding Autonomous Practice and the Joint Boards' work to the Virginia Council of Nurse Practitioners (VCNP) at the March 8, 2019 Conference. Staff will make modifications to the license application based on feedback received. VCNP has posted FAQs on their website. Ms. Douglas noted that concerns were raised regarding nurse practitioners who hold a license in VA and other states but primarily practice in other states where the requirements for Autonomous Practice are not the same as in VA. Additional review of this issue is needed.
- **APRN Compact** – three states have adopted the model language that NCSBN passed in 2015; however, APRN Compact has not been implemented due to conflicts between state law and compact language. As a result, this matter will be discussed at the April 10, 2019 APRN Consensus Forum. NCSBN has invited Executive Directors and Board Presidents of the Boards of Nursing. Ms. Douglas and Ms. Hershkowitz will attend the Forum.

C4a Board of Nursing January 1 – December 31, 2018 Licensure and Discipline Statistics – for information only.

C4b NCSBN Board of Directors Post – Board Meeting Update:

Ms. Douglas reviewed the letter and noted:

- ❖ The Optimal Regulatory Board Systems (ORBS) deployment is going well. Eight or nine Boards have already implemented ORBS, which is an NCSBN designed licensing and disciplinary data base available to Boards.

- ❖ NCSBN received an excellent preliminary report about the “Nursing Education Outcomes and Metrics Committee” which provides information about success and risk factors for education programs.

Ms. Hershkowitz expressed her appreciation for Ms. Douglas’ participation on the Board of Directors. She noted that Ms. Douglas is interested in running again for the seat on Board of Directors for Area III and asked the Board to endorse Ms. Douglas for the position. Ms. Minton moved to endorse Ms. Douglas running for the seat on the Board of Directors for Area III. The motion was seconded and carried unanimously.

Ms. Douglas expressed her appreciation of Dr. Brown’s support for her involvement at the National level. Dr. Brown commented that he believes it is the Board benefits to have information from and involvement in regulatory national organizations.

C6 Special NLC Commission February 22-23, 2019 Meeting Report:

Ms. Willinger reported that 28 states out of 31 attended the meeting and Dr. Leonard Marcus was a dynamic facilitator. She stated that primary issues covered were new states to the NLC and offering choices of multistate license and single state license options.

Ms. Willinger added that the Advisory Opinion of the NLC Commission in Consultation with Legal Counsel was produced based on agreement of all attendees.

Ms. Willinger said that NCSBN is working on getting the message out via social media to employers, etc.

OTHER MATTERS:

Board Counsel Update:

Ms. Mitchell reported that no decision has been made yet regarding the appeal hearing in Fairfax County.

D1 CORE Committee Reports and Recommendations Memo:

Ms. Minton reviewed the ongoing work of the Commitment to Ongoing Regulatory Excellence (CORE) Committee for the last two years evaluating 2016 reports from NCSBN regarding Licensure, Education, Discipline and Practice that were sent to nurses, educators and employers.

Ms. Minton thanked Dr. McQueen-Gibson, Ms. Friedenberg and Ms. Ridout for their participation in reviewing and making recommendations.

D1a CORE Summary 2016: Licensure

Ms. Minton noted no action is needed since the Board accepted this report in May of 2017.

D1b CORE Summary 2016: Discipline

Ms. Minton noted no action is needed since the Board accepted this report in May of 2017.

D1c CORE Summary 2016: Education and D1d CORE Summary 2016: Practice

Ms. Minton stated the overall theme was that information needs to be improved with clear information regarding laws, regulations and guidance documents. Ms. Minton added that a low response rate received, especially from employers.

Ms. Hershkowitz thanked the Committee and Ms. Ridout for providing recommendations moving forward.

Ms. McElfresh moved to accept the reports and recommendations as presented. The motion was seconded and carried unanimously.

PUBLIC COMMENT: There was no public comment made.

OTHER MATTERS (cont.): **D2 Review of Guidance Documents (GDs) Recommendations Memo**

Ms. Douglas thanked Ms. Speller for her methodical work on periodic review of the GDs.

D2a 90-34 (Request for Review and Challenges of NCLEX):

Ms. Douglas noted that staff recommend action to discuss, instead of repeal, with a new recommendation reaffirming previous motions of the Board not to participate in NCLEX review and challenges.

Dr. Saxby explained rationale as the review does not give candidates what they expect and need and the Board only has had one request in 1994. This process is very expensive for candidates.

Ms. Douglas stated that Virginia allows unlimited times to take the NCLEX. Dr. Saxby added that the Board had one candidate who took the NCLEX 47 times.

Ms. Gerardo moved to accept the GD 90-34 as recommended. The motion was seconded and carried unanimously.

D2b 90-41 (Patient Abandonment by Care Providers):

Ms. Speller stated that staff proposed to readopt with updated regulatory citation in the last sentence of the 2nd paragraph on page 1 to 18VAC90-19-230 instead of 18VAC90-20-300.

Ms. McElfresh moved to accept GD 90-41 as recommended. The motion was seconded and carried unanimously.

D2c 90-48 (Guidance on the Use of Social Media):

Ms. Speller said that staff proposed to amend with removal of reference to “About.com”.

Ms. Mitchell expressed concerns that this GD has more information than what a GD should include. She recommended repealing it.

Ms. Hershkowitz suggested to table it and refer back to staff for further review. Ms. McElfresh moved to table this GD for further review by staff. The motion was seconded and carried unanimously.

D2d 90-52 (Removal of Venous and Arterial Sheaths by Unlicensed Personnel):

Ms. Speller said that staff proposed to amend with removal of “*Sheaths by Unlicensed Personnel*” and updating Nursing Regulations citation in 1st paragraph to 18VAC90-19-260 instead of 18VAC90-20-441(1)(f).

Ms. Minton moved to adopted GD 90-52 as presented and amended. The motion was seconded and carried unanimously.

Informal Conference Dates for July – December 2019:

Ms. Power thanked Committee Members for quick responses regarding available dates. She added that she is awaiting date from one more Committee. She noted that it appears 1st and 2nd choice dates will work pending room and APD staff availability.

May Board Week Panels:

Ms. Douglas reported that staff need to get with Board members in moving one member from Monday, May 20, to Thursday, May 23. Ms. Power added that there is no Citizen Member on Thursday, May 23 and staff will request switching one Citizen Member to Thursday Panel.

RECESS:

The Board recessed at 10:25 A.M.

RECONVENTION:

The Board reconvened at 10:45 A.M.

POLICY FORUM:

Dr. Elizabeth Carter and Dr. Yetti Shobo presented on the Board of Nursing survey reports. Dr. Carter stated that the Virginia Department of Health Professions’ Healthcare Workforce Data Center (HWDC), who administer the survey during the license renewal process, which takes place during a two-year renewal cycle on the birth month of each respondent.

Dr. Shobo provided a summary of the following reports which will be posted on the DHP website upon approval:

- ❖ Virginia's Certified Nurse Aide Workforce: 2018
- ❖ Virginia's Licensed Practical Nurse Workforce: 2018
- ❖ Virginia's Registered Nurse Workforce: 2018
- ❖ Virginia's Licensed Nurse Practitioner Workforce: 2018
- ❖ Virginia's Licensed Nurse Practitioner Workforce: Comparison by Specialty

Dr. Carter noted that staff is looking for ways to address the decline in response rate unique to Nursing that they do not see in other professions. The Board suggested exploring with IT regarding auto populating from the RN survey data and to modify messaging on renewal to emphasize the benefits of the survey.

Dr. Carter also provided the Demand statistics provided by the U.S. Bureau of Labor Statistics Estimates & Projections for RNs, LPNs and CNAs.

Ms. Hershkowitz thanked Drs. Carter and Shobo for their presentation.

Ms. Speller left the meeting at 11:30 A.M.

EDUCATION:

E1 Education Informal Conference Committee March 6, 2019 Minutes and Recommendations:

Dr. Saxby highlighted the recommendations in the minutes. Dr. Saxby also reviewed the NCLEX 2018 results handout.

Ms. McElfresh moved to accept the Education Informal Conference Committee March 6, 2019 minutes and recommendations as presented. The motion was seconded and carried unanimously.

Education Staff Report:

Nothing to report.

LEGISLATION/
REGULATION:

F1 Status of Regulatory Action:

Ms. Yeatts reviewed the chart of regulatory actions provided in the agenda with an update that Supervision and Direction of Laser Hair Removal is now at the Secretary's Office for review. She added that the Prescribing of Opioids is not in the Governor's Office yet and the emergency regulations will expire on May 6, 2019.

F2 Adoption of Proposed Regulations for Autonomous Practice for Nurse Practitioners (18VAC90-30):

Ms. Yeatts said that the proposed regulations identical to current emergency regulations are recommended for the Board's action from the Committee of

the Joint Boards of Nursing and Medicine. Ms. Yeatts added that no comment was received on the NOIRA and the Board of Medicine adopted the proposed regulations on February 14, 2019.

Ms. Gerardo moved to adopt the proposed regulations as recommended. The motion was seconded and carried unanimously.

F3 Adoption of Guidance Documents (GD) for Nurse Practitioners

Ms. Yeatts noted that the **GD 90-53** (*Treatment by Women’s Health Nurse Practitioners of Male Clients for Sexually Transmitted Diseases*) will be removed from the Agenda. She added that this GD will be brought back to the Committee of the Joint Boards of Nursing and Medicine for consideration due to additional comments received.

GD 90-33 (*Authority of Licensed Nurse Practitioners to write Do Not Resuscitate Orders – DNR Orders*) – Ms. Yeatts noted that the additional *italic underlined* language has been added to GD 90-33 as recommended by the Committee of the Joint Boards of Nursing and Medicine for the Board’s action.

Ms. Gerardo moved to adopt the GD 90-33 as recommended. The motion was seconded and passed.

F4 General Assembly 2019 Update:

Ms. Yeatts reviewed the 2019 Legislative Report provided in the Board’s materials.

RECESS: The Board recessed at 12:05 P.M.

RECONVENTION: The Board reconvened at 12:50 P.M.

CONSIDERATION OF CONSENT ORDERS:

G1 Christopher Quick, LPN 0002-087769

Ms. McEfresh moved to accept the consent order to indefinitely suspend the license of Christopher Quick to practice practical nursing in the Commonwealth of Virginia with the suspension stayed contingent upon Mr. Quick’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.

G2 Kimberly Parks Hope Vandergriff, RN 0001-090173

Ms. McEfresh moved to accept the consent order to reprimand Kimberly Parks Hope Vandergriff and to accept the voluntary surrender for continued indefinite suspension of her right to renew her license to practice professional

nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

G3 Nancy Perry Marrs, LPN **0002-044440**

Ms. McElfresh moved to accept the consent order for voluntary surrender for indefinite suspension of Nancy Perry Marrs' license to practice practical nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

G4 Hollie Marie Woodson, RN **0001-243498**

Ms. McElfresh moved to accept the consent order to suspend the license of Hollie Marie Woodson to practice professional nursing in the Commonwealth of Virginia. The suspension is stayed upon proof of Ms. Woodson's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) and remain in compliance with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was seconded and carried unanimously.

POSSIBLE SUMMARY SUSPENSION CONSIDERATION – 1:00 P.M.

Wayne Halbleib, Assistant Attorney General, and Grace Stewart, Adjudication Specialist – **joined the meeting at 1:00 P.M.**

The meeting was called to order at 1:00 pm by Ms. Hershkowitz. With ten members of the Board of Nursing participating, a quorum was established.

Wayne Halbleib, Assistant Attorney General presented evidence that the continued practice of nursing by April L. Laxson, RN 0001- 213570 may present a substantial danger to the health and safety of the public.

Ms. Phelps moved to summarily suspend the license of April L. Laxson to practice professional nursing 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.

Ms. Halbleib and Ms. Stewart left the meeting 1:15 P.M.

RECESS: The Board recessed at 1:15 P.M.

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

BOARD MEMBER
TRAINING:

Ms. Douglas and Ms. Power provided an overview of the Agency Subordinate Process to include:

- Statutory Authority
- Current Agency Subordinates

- History & Application
- Agency Subordinate Informal Conference Proceeding Format
- Internal Board of Nursing Process
- Notification of Recommendation
- Agency Subordinate Agreement Tracking Log

DEBRIEF:

The following were well received by Board Members:

- HWDC Data Presentation
- Numbering system for the Business meeting package
- Glad to hear the Officers considering meeting frequency
- Agency Subordinate Process training

The following needs improvement per Board Members:

- Consider what is appropriate to put on a thumb drive such as consent agenda items in order to decrease paper copies

ADJOURNMENT:

The Board adjourned at 2:25 P.M.

Louise Hershkowitz, CRNA, MSHA
President