

**VIRGINIA BOARD OF NURSING
MINUTES
September 15, 2009**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on September 15, 2009 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Lynne M. Cooper, Citizen Member, President

BOARD MEMBERS PRESENT:

Patricia M. Selig, R.N., F.N.P., Ph.D., Vice President
Peregrin C. Francisco, R.N., M.S.A., Secretary
Joyce A. Hahn, Ph.D.; APRN; NEA-BC
Brenda L. Hale, R.N.
Jeanne E. Holmes, Citizen Member
John M. Horn, L.P.N.
Florence Jones-Clarke, R.N., M.S.
Patricia C. Lane, R.N., B.S.N., M.B.A., H.C.A.
Evelyn Lindsay, L.P.N.
Judith E. Piersall, R.N., B.S.N.
Karen K. Schultz, Ph.D., M.B.A, Citizen Member

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director
Brenda Krohn, R.N., M.S., Deputy Executive Director
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director
Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant
Linda Kleiner, R.N., Discipline Case Manager
Ann Tiller, Compliance Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT: Sandra Whitley Ryals, Director, Department of Health Professions
Elaine Yeatts, Policy Analyst, Department of Health Professions
Charissa Foster, representative from Hancock, Daniel, Johnson & Nagle
Dr. Lauren Goodloe, representative from Virginia Nurses Association
James Pickeral, representative from Virginia Nurses Association
Carmina Baustina, representative from Philippine Nurses Association

ESTABLISHMENT OF A QUORUM: With twelve members of the Board present, a quorum was established.

ANNOUNCEMENTS:

- Welcome to Jeanne Holmes, appointed to the Citizen Board member position vacated by Lawrence Logan.
- Mr. Logan and Ms. Ponn will be guests at lunch today to recognize their service to the Board of Nursing. Their terms ended June 30, 2009.

- Appointments have been made for the new Massage Therapy Advisory Board. Five members have been appointed; no meetings have been scheduled at this time.
- The Committee of the Joint Boards of Nursing and Medicine next meeting is scheduled for October 14, 2009.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed two items from the proposed consent agenda. Dr. Selig moved to accept the consent agenda which includes:

Minutes:

July 15, 2009 – Telephone Conference Call – Ms. Cooper
 July 20, 2009 – Panel – Dr. Selig
 July 21, 2009 – Board Meeting – Ms. Cooper
 July 22, 2009 – Quorum – Ms. Cooper
 July 22, 2009 – Panel – Dr. Selig
 July 22, 2009 – Panel – Ms. Cooper
 August 4, 2009 – Telephone Conference Call - Ms. Cooper
 August 18, 2009 – Telephone Conference Call - Dr. Selig
 August 25, 2009 – Panel - Dr. Selig
 August 25, 2009 – Telephone Conference Call – Dr. Selig

Reports:

Finance Report

Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics
 Health Practitioners Monitoring Program Report of Statistics
 Agency Subordinate Tracking Log

Ms. Lindsay moved to accept the minutes below removed from the consent agenda as corrected.

July 23, 2009 – Ms. Cooper

REPORTS:

Executive Director Report:

Ms. Douglas provided additional information not included in the written report that included:

- Board staff participated in a National Council of State Boards of Nursing webinar regarding paperless licensing on September 9, 2009. Benefits of paperless licensing decreases the opportunity to alter or forge license documents and decreases costs to Boards. Department of Health Professions is exploring this issue, additional information will be provided when available.
- Telephone calls related to flu vaccine protocol approval have increased. Staff have been clarifying that protocols for mass immunizations for adults are approved by the Board of Nursing. Protocols for pediatric immunizations are not required to be approved by the Board of Nursing.

- Ms. Douglas attended a meeting of the Legislative Coalition of Virginia Nurses; the final draft of proposed legislation will be shared when available.
- Ms. Douglas will attend a Virginia Partnership for Nursing (VPN) meeting on Friday, September 18, 2009. Mr. Horn asked for clarification of the public/private partnership proposal referenced in the report of the Executive Director from attending the last Virginia Partnership for Nursing meeting. Ms. Douglas responded that no further information had been provided by VPN about this proposal.
- Massage Therapy Advisory Board was created to provide a consistent group of experts to provide advice in matters related to certified massage therapists. The Advisory Board will make recommendations to the Board of Nursing. Current issues include exam options and education program approval process.

Medication Aide Program:

Ms. Krohn reported 4,825 applications have been received; the current number of registered medication aides is 3,391. Applications for registration by endorsement are being received; the verification process of registration in other states is difficult due to different regulations among states.

Taxonomy of Error, Root Cause Analysis and Practice Responsibility

(TERCAP) - Ms. Mitchell reviewed information provided by National Council of State Boards of Nursing (NCSBN) regarding TERCAP. TERCAP is a data collection instrument designed to collect information for the purpose of identifying the root cause(s) of nursing practice breakdown. The TERCAP instrument has been designed for and made available to all NCSBN member boards of nursing and assists in capturing data on discipline cases, to feed into a national data set. It allows for standardized, comprehensive and consistent data collection by investigators and facilities reporting cases to boards of nursing. The NCSBN research department will perform aggregate data analysis on the secure and confidential information submitted online to NCSBN. All cases submitted using the online TERCAP instrument by a board of nursing will also be available to that board for their own use. The overall goal of TERCAP is to promote patient safety by better understanding nursing practice breakdown and by improving the effectiveness of nursing regulation. Virginia Board of Nursing staff have met with Department of Health Professions Enforcement staff to begin implementation of TERCAP. There will be no costs to the Department of Health Professions associated with implementation of TERCAP. Ms. Douglas stated that analysis of data provided by NCSBN will be to nursing education programs and employers in an effort to prevent practice breakdown. Ms. Mitchell will serve as lead staff on this project and will convene an initial meeting of the workgroup in the next few weeks.

EDUCATION:

Education Special Conference Committee Minutes – September 09, 2009:

Ms. Ressler reported on items of interest from the meeting held September 9, 2009. Ms. Piersall moved to accept the minutes as submitted. The motion was seconded and carried unanimously.

Education Program Orientation Meeting:

Ms. Ressler invited representatives from ten proposed nursing education programs to attend the first Board sponsored orientation to share information needed to those interested in opening a nursing education program. The orientation session was held on August 25, 2009, representatives from six programs were present. Participants were able to interact and learn from questions raised regarding the process of having a nursing education program approved. Those in attendance stated the orientation was very helpful and another orientation is being scheduled December, 8, 2009. Nursing education orientation workshops will be offered on an on-going bases as a means to be more efficient with nursing education staff resources and to ensure consistency of information provided to potential Virginia programs.

Recent Survey Visits to Nursing Education Programs:

Ms. Ressler reported a trend during recent survey visits to nursing education programs regarding questions related to students being able to access long term care facilities in case the facilities are closed due to an H1N1 outbreak. Ms. Ressler encouraged nursing education programs to be creative in how students can obtain clinical hours if such a situation occurs.

Formal Hearings for Nursing Education Programs:

Ms. Douglas reported that formal hearings were conducted Monday, September 14, 2009 for two practical nursing education programs. The Board voted to withdraw provisional approval and to deny full approval to both programs.

Identification for NCLEX Examination Candidates:

Dr. Saxby provided information from National Council of State Boards of Nursing (NCSBN) on the implementation of palm vein recognition for NCLEX exam candidates. The process is expected to be implemented effective October 1, 2009 at testing centers. The advanced technology to offer a form of positive identification that is much more accurate than older identification verification technologies such as digital fingerprinting. Palm vein recognition allows NCSBN to accurately identify people trying to take the NCLEX under assumed testers identities. By preventing proxy testers, the technology helps NCSBN maintain the integrity of the NCLEX examination. All NCLEX candidates will have to provide a digital fingerprint and have their palm vein scanned.

NCLEX Alternate Item Format:

Dr. Saxby reported that National Council of State Boards of Nursing (NCSBN) and PearsonVue continue to test new NCLEX items and questions. The Board of Nursing will notify all nursing education programs approved by the Board to advise them of changes. An audio component is also being added the NCLEX.

Annual Survey Update:

Dr. Saxby reported the annual survey submitted to the Board of Nursing by nursing education programs is being revised. It is anticipated to release the annual survey report to nursing education programs by October 1, 2009.

Nurse Aide Written Exam:

Dr. Saxby provided an update on changes to the NNAAP examination scheduled to become effective in January 2010. PearsonVue will begin administering a new knowledge (written) examination based on a revised NNAAP Content Outline. The revised Content Outline is the result of both a national job analysis of nurse aides conducted by the National Council of State Boards of Nursing in 2005 as well as content outline review meeting held by the National Council of State Boards of Nursing in early 2009. Candidates scheduled to take the written examination starting January 1, 2010 will receive examinations based on the revised content outline. Beginning this fall, candidate handbooks will be available with the revised outline included as well as being available online on the Pearson VUE website. The revisions to the NNAAP examination reflect both Pearson VUE and the National Council of State Boards of Nursing's ongoing commitment to ensure the NNAAP remains a valid instrument for accessing the competency of individuals seeking to become certified nurse aides.

OTHER MATTERS:

NURSYS Data Integrity Project:

Ms. Douglas reported that the National Council of State Boards of Nursing (NCSBN) has approved a grant to fund the Board of Nursing phase one data integrity project. The project is to gather data that is currently not in the NURSYS data bank. Ann Tiller, Board of Nursing Compliance Manager will be the lead staff person for this project. Temporary employees under contract with NCSBN will gather data from the Board of Nursing hard copy licensure records and enter the information into License 2000. Subsequently, this data will be loaded into NURSYS. NURSYS is the coordinated licensure information system shared by over 40 boards of nursing. Department of Health Professions procurement office staff are working with NCSBN to develop a contract. It is anticipated to begin this project in October 2009.

National Council of State Boards of Nursing (NCSBN) Delegate Assembly:

Ms. Douglas reported that Ms. Lane was elected to the NCSBN Leadership Succession Committee at the annual conference. Ms. Lane will serve a two year term. Ms. Douglas and Ms. Lane attended the conference, and reported on the following topics:

- Delegate Assembly decisions included adoption of model education rules
- Ontario, Manitoba and Alberta were accepted as associate members of the NCSBN
- NCSBN plans to expand more globally
- 2010 proposed NCLEX test plan

Ms. Douglas attended an executive officer session that discussed the following topics:

- Problems with clinical facilities
- Chief Nursing Officer turnover rates
- Diversion/Alternative programs

Ms. Lane attended a board member session that discussed the following topics:

- Use of agency subordinates
- Use of Sanction Reference Study

Area III information included the following topics:

- Mississippi absolved their joint boards of nursing and medicine that had oversight for nurse practitioners
- Criminal background checks have been implemented for renewal and reinstatement in North Carolina
- South Carolina Board of Nursing is developing pain management guidelines
- Tennessee has a new joint boards of nursing and medicine
- Texas is experiencing an increase in discipline cases related to criminal background checks
- Florida Board of Nursing has had authority to approve education programs stripped by the legislature

Nurse Licensure Compact Administrators Meeting:

Ms. Douglas attended the meeting held prior the NCSBN annual conference. The group discussed its relationship with NCSBN and the need for support to be provided by NCSBN. Enhancements to NURSUS to better identify actions against multi state privileges was discussed.

POLICY FORUM:

**Tia Campbell, RN, MSN, NCSN, School Health Specialist,
Virginia Department of Education:**

Ms. Campbell provided a succinct and informative presentation on the challenges and practice of school nurses in Virginia that included:

- Statistics regarding nurse to student ratio.
- National minimum caseload recommendations.
- Funding for school nurse staff.
- Student chronic health conditions for the past 3 school years.

LEGISLATION/REGULATIONS:

Regulations for foreign trained nurses; CGFNS Certification and Qualifying Exam:

Ms. Yeatts provided information regarding the draft final regulations. 134 comments were received on the proposed amendments posted on the Virginia Regulatory Townhall. All were in favor of the proposed change to eliminate the CGFNS qualifying examination.

Ms. Francisco moved to adopt the amendments on requirements for foreign-educated nurses as a final action. The motion was seconded and carried unanimously.

DIALOGUE WITH AGENCY DIRECTOR:

Ms. Ryals discussed information that included the following topics:

- Virginia Performs Quarterly Performance Measurement ending with the fourth quarter of 2009 for the Board of Nursing.
 - o Clearance rate (number of cases received vs. received), Board of Nursing rate is 103% (goal is 100%)
 - o Age of Pending Caseload (percent of cases older than 250 days), Board of Nursing rate is 9% (goal is 25%).

- o Time to Disposition (percent resolved within 250 days), Board of Nursing rate is 88% (goal is 90%).
- o Ms. Ryals noted the significant achievements by the Board of Nursing and the Department of Health Professions related to all performance measures.
- Ms. Douglas added there are currently no cases at the Board level that have not been acted on in some way. She acknowledged staff and board members work in this area.
- Health Care Work Force Data Center continues in the research process. Workforce study reports are expected to be available later this month. Funding for the data center is still in place and additional work groups may be added for nurse practitioners and physician assistants.
- The Prescription Monitoring Program is close to restoring full access to registered users.

Ms. Ryals, Ms. Yeatts, Dr. Saxby and Ms. Ressler left the meeting.

RECESS: The Board recessed at 11:53 A.M.

RECONVENTION: The Board reconvened at 1:22 P.M.

CONSIDERATION OF CONSENT ORDERS:

CLOSED MEETING: Ms. Francisco moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:23 P.M. for the purpose of deliberation to reach a decision regarding consideration of consent orders. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Ms. Kleiner and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 1:27 P.M.

Ms. Francisco 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.

Elizabeth A. Meadows, R.N. 0001-142782

Ms. Lindsay moved to accept the consent order to indefinitely suspend the professional nursing license of Elizabeth Meadows until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Andrea V. Palmer, L.P.N. 0002043873

Ms. Lindsay moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the practical nursing license of Andrea

Palmer until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

Michelle L. Smith, R.N. 0001-208822; C.N.A. 1401-116951

Ms. Piersall moved to accept the consent order to indefinitely suspend Michelle Smith's right to renew her professional nursing license and her nurse aide certificate until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice.

Charlene Young Morissaint, L.P.N. 0002-064633; R.N. Applicant

Ms. Lindsay moved to accept the consent order to indefinitely suspend the practical nursing license of Charlene Morissaint until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice and to deny Ms. Morissaint's application for licensure in Virginia by examination. The motion was seconded and carried unanimously.

Amy Alford, L.P.N. 0002-068924

Ms. Hale moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the practical nursing license of Amy Alford until such time as she is able to appear before the Board and provide sufficient evidence that she is safe and competent to practice. The motion was seconded and carried unanimously.

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATIONS REGARDING APPLICANTS:

Victoria Cobb, R.N. Applicant

Ms. Cobb appeared

CLOSED MEETING:

Ms. Francisco moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:43 P.M. for the purpose of deliberation to reach a decision in the matter of Ms. Cobb. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Ms. Kleiner and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried. Ms. Cooper, Ms. Francisco, Ms. Hale, Ms. Holmes, Mr. Horn, Ms. Jones-Clarke, Ms. Lane, Ms. Lindsay, Ms. Piersall and Dr. Schultz were in favor of the motion. Dr. Selig opposed the motion.

RECONVENTION:

The Board reconvened in open session at 1:50 P.M.

Ms. Francisco 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.

ACTION: Ms. Hale moved to accept the recommended decision of the agency subordinate to approve the application of Victoria Cobb for licensure by endorsement as a professional nurse subject to the condition that Ms. Cobb continues to comply with the Health Practitioners Monitoring Program for the period specified by the program. The motion was seconded and carried unanimously.

Miriam Edwards, C.N.A. Applicant
Ms. Edwards appeared.

CLOSED MEETING: Ms. Francisco moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:59 P.M. for the purpose of deliberation to reach a decision in the matter of Miriam Edwards. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Ms. Kleiner and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:02 P.M.

Ms. Francisco 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.

ACTION: Dr. Hahn moved to accept the agency subordinate recommendation to approve the application of Miriam Edwards for certification by examination as a nurse aide contingent upon receiving evidence that she has entered the Health Practitioners Monitoring Program and thereafter remaining in compliance with the program. The motion was seconded and carried unanimously.

CLOSED MEETING: Ms. Francisco moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 2:04 P.M. for the purpose of deliberation to reach a decision regarding consideration of agency subordinate recommendations regarding applicants. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Ms. Kleiner and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:20 P.M.

Ms. Francisco 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.

Penny A. Clark, L.P.N. Applicant

Ms. Clark did not appear.

Ms. Piersall moved to accept the agency subordinate recommendation to approve the application of Penny Clark for licensure as a practical nurse by endorsement contingent upon receiving evidence that Ms. Clark has entered into the Health Practitioners Monitoring Program and thereafter remaining in compliance for the period specified by the program. The motion was seconded and carried unanimously.

Michelle Smith, R.N. Applicant

Ms. Smith did not appear.

Ms. Lindsay moved to accept the agency subordinate recommendation to approve the application of Michelle Smith for licensure as a professional nurse by examination and that Ms. Smith be issued a restricted license to practice as professional nurse in Virginia and be placed on probation for one year of actual nursing practice with terms. The motion was seconded and carried.

Ms. Francisco, Ms. Hale, Ms. Holmes, Mr. Horn, Ms. Jones-Clarke, Ms. Lane, Ms. Lindsay, Ms. Piersall, Dr. Schultz and Dr. Selig were in favor of the motion. Ms. Cooper opposed the motion.

Anne McKell Barrett, L.P.N. Applicant

Ms. Barrett did not appear.

Ms. Lindsay moved to accept the agency subordinate to approve the application of Anne Barrett for licensure as a practical nurse by endorsement contingent upon verification of entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the program. The motion was seconded and carried. Ms. Francisco, Ms. Hale, Ms. Holmes, Ms. Jones-Clarke, Ms. Lane, Ms. Lindsay and Dr. Selig were in favor of the motion. Ms. Cooper, Ms. Piersall, Dr. Hahn and Mr. Horn opposed the motion. Dr. Schultz abstained from voting.

As there was no additional business, the meeting was adjourned at 2:30 P.M.

Lynne Cooper, Citizen Member
President

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