

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
AGENCY SUBORDINATE RECOMMENDATION
MINUTES
July 21, 2020**

TIME AND PLACE: The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 8:37 A.M., July 21, 2020 in Board Room 4, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

MEMBERS PRESENT: Marie Gerardo, MS, RN, ANP-BC; Chair
Louise Hershkowitz, CRNA, MSHA
Ann Tucker Gleason, PhD
Kenneth Walker, MD
Nathaniel Ray Tuck, Jr., DC

MEMBERS ABSENT: Karen A. Ransone, MD

STAFF PRESENT: Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice; Board of Nursing

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General; Board Counsel

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

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATIONS:

Diane Lee Burns, LNP **0024-164359**
Ms. Burns appeared.

CLOSED MEETING: Ms. Hershkowitz 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 8:43 A.M., for the purpose of consideration of the agency subordinate recommendation. Additionally, Ms. Hershkowitz moved that Dr. Hills, Ms. Graham, and Ms. Mitchell, Committee 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 reconvened in open session at 8:54 A.M.

Ms. Hershkowitz 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

Virginia Board of Nursing
Committee of the Joint Boards of Nursing and Medicine – Business Meeting
July 21, 2020

in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

Ms. Herhkowitz moved the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to indefinitely suspend the license of Diane Lee Burns to practice as a nurse practitioner in the Commonwealth of Virginia for a period of not less than two years from the date of entry of the Order. The motion was seconded and carried unanimously.

ADJOURNMENT: The Committee adjourned at 8:57 A.M.

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

VIRGINIA BOARD OF NURSING
MINUTES
July 21, 2020

- TIME AND PLACE:** The meeting of the Board of Nursing was called to order at 9:03 A.M. on July 21, 2020, in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- PRESIDING:** Marie Gerardo, MS, RN, ANP-BC; First Vice President
- BOARD MEMBERS PRESENT:**
Mark D. Monson, Citizen Member; Second Vice President
Yvette L. Dorsey, DNP, RN
Margaret J. Friedenberg, Citizen Member
Ann Tucker Gleason, PhD, Citizen Member
James L. Hermansen-Parker, MSN, RN, PCCN-K
Louise Hershkowitz, CRNA, MSHA
Brandon A. Jones, MSN, RN, CEN, NEA-BC
Dixie L. McElfresh, LPN – **joined at 9:12 A.M.**
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Meenakshi Shah, BA, RN
Felisa A. Smith, RN, MSA, MSN/Ed, CNE
Cynthia M. Swineford, RN, MSN, CNE
- MEMBERS ABSENT:** Jennifer Phelps, BS, LPN, QMHP-A, CSAC; President
- STAFF PRESENT:** Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Claire Morris, RN, LNHA; Deputy Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advance Practice
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Stephanie Willinger; Deputy Executive Director for Licensing
Jacquelyn Wilmoth, RN, MSN; Nursing Education Program Manager
Claire Morris, RN, LNHA; Discipline Case Manager
Francesca Iyengar, MSN, RN; Discipline Case Manager
Huong Vu, Executive Assistant
- OTHERS PRESENT:** Charis Mitchell, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
- IN THE AUDIENCE:** Howie Goodman, President of Virginia Association of Nurse Anesthetists (VANA)
Andrienne Hartgerink, President-Elect of VANA
Janet Setnor, MSN, CRNA, VANA
Kassie Schroth, McGuireWoods Consulting (MWC)
Scott Johnson, Hancock, Daniel & Johnson, PC
- ESTABLISHMENT OF A QUORUM:** Ms. Gerardo asked Board Members and Staff to introduce themselves. With 13 members present, a quorum was established.
- REVIEW OF SOCIAL DISTANCING GUIDELINES:**

Ms. Douglas highlighted the social distancing guidelines and Board staff logistics for Board of Nursing meeting and formal hearings.

ANNOUNCEMENTS:

Ms. Gerardo highlighted the announcements on the agenda.

- Recognition of Service of Louise Hershkowitz as President of the Virginia Board of Nursing
- Ann Tiller, Board of Nursing Compliance Manager, was appointed to the Nurse Licensure Compact (NLC) Technology Task Force
- Jodi P. Power, RN, JD, Senior Deputy Executive Director for the Virginia Board of Nursing, retired effective April 1, 2020
- Claire Morris, RN, LNHA, started the Deputy Executive Director position on March 25, 2020 (**replacing Jodi Power**)
- Terri Clinger, DNP, RN, CPNP-PC, Deputy Executive Director for Advanced Practice, resigned effective April 24, 2020
- Robin Hills, RN, DNP, WHNP, transferred to the Deputy Executive Director for Advanced Practice position effective June 1, 2020 (**replacing Terri Clinger**)
- Marian McLean, RN, CCM, started the Nursing Probable Cause Reviewer position on June 22, 2020
- Francesca Iyengar, MSN, RN, accepted the Discipline Case Manager position and started on July 10, 2020 (**replacing Claire Morris**)
- Jay P. Douglas, RN, MSM, CSAC, FRE, Executive Director for the Board of Nursing, is on the Slate of Candidates for NCSBN as President-elect

Ms. Douglas added the following regarding staff:

- ❖ Anne Joseph, former Deputy Director of the Administrative Proceedings Division (APD) has transitioned into the role of an Adjudication Consultant in APD focusing on presenting disciplinary cases for the Board of Medicine, and nurse practitioners' cases for the Board of Nursing. Ms. Joseph continues to handle mandatory suspension, suspensions for dishonored payment, and special projects as assigned.
- ❖ Julia Bennett, Assistant Attorney General in the Health Profession Unit of the Office of the Attorney General presenting cases before the health regulatory boards, has accepted the APD's Deputy Director effective July 27, 2020.

Ms. Gerardo added the following regarding Board Members:

- ❖ Ann Tucker Gleason, PhD, Citizen Board Member was elected a Fellow of the American Speech-Language-Hearing Association (ASHA) for her outstanding professional achievements.
- ❖ Brandon Jones, MSN, RN, CEN, NEA-BC, Board Member, was appointed by the NCSBN Board of Directors as a member of the Fiscal Year 2021 NCLEX Item Review Subcommittee for a two-year term.

Ms. Gerardo thanked Ms. Hershkowitz for her exceptional services to the Board as Board Member and as Board President. Ms. Hershkowitz stated that it was her honor to work with Board Members and Board Staff. Ms. Douglas thanked Ms. Hershkowitz for her extraordinary leadership.

Ms. McElfresh joined the meeting at 9:12 A.M.

- UPCOMING MEETINGS: The upcoming meetings listed on the agenda:
- NCSBN Nurse Licensure Compact (NLC) Commission Annual Meeting is scheduled virtually for August 11, 2020 in Chicago, IL – Ms. Douglas will attend as Commissioner for the NLC.
 - NCSBN Annual Meeting is scheduled virtually for August 12, 2020 in Chicago, IL – Board Members and Staff may participate as registration allows
 - The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for Wednesday, October 21, 2020 at 9:00 am in Board Room 2

ORDERING OF AGENDA: Ms. Gerardo asked if Board Members wish to add any items to the Agenda. There were no item added.

Ms. Gerardo asked staff to provide updates to the Agenda.

Ms. Douglas provided the following:

- Two additional Consent Orders have been added for consideration
- The formal hearing of Julie Jackson, RN Reinstatement Applicant scheduled for Tuesday, 7/21/2020, on Panel B has been continued
- The formal hearings of Crystal D. Bell, LPN and Lavonne S. Lucas, CNA scheduled for Wednesday, 7/22/2020, on Panel B has been continued

- Tiffany C. Thompson, RN, and Megan S. Hardesty, RN signed their Consent Orders. Their formal hearings scheduled for Wednesday, 7/22/2020, on Panel B have been cancelled

CONSENT AGENDA: The Board removed Financial Report as of May 31, 2020 (C2) from the consent agenda for discussion.

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

Consent Agenda

B1 January 27, 2020	Board of Nursing Officer Meeting
B2 January 27, 2020	Formal Hearings
B3 January 28, 2020	Board of Nursing Business Meeting
B4 January 29, 2020	Formal Hearings – Panel A
B5 January 29, 2020	Formal Hearings – Panel B
B6 January 30, 2020	Formal Hearings
B7 March 18, 2020	Telephone Conference Call
B8 April 21, 2020	Telephone Conference Call
B9 May 7, 2020	Telephone Conference Call
B10 June 17, 2020	Telephone Conference Call
B11 June 29, 2020	Telephone Conference Call

C1 Agency Subordinate Tracking Log

C3 Board of Nursing Monthly Tracking Log

C4 HPMP Quarterly Report as of June 30, 2020

C5 Criminal Background Check (CBC) Unit Annual Report

C6 Board of Nursing January 1 – December 31, 2019 Licensure & Discipline Statistic

C7 The Committee of the Joint Boards of Nursing and Medicine February 12, 2020 DRAFT Business Meeting and Informal Conference minutes

C8 Board of Health Professions February 27, 2020 Meeting DRAFT Minutes

C9 Informal Conference Schedule from August through December 2020

C10 Board of Nursing 2021 Business meeting and formal hearing dates

C11 Executive Director Report

- ❖ February 12, 2020 Letter from Julia George, MSN, RN, FRE, NCSBN President

- ❖ July 1, 2020 Notification from Committee of the Joint Boards of Nursing and Medicine regarding Certified Registered Nurse Anesthetists (CRNAs) with Prescriptive Authority

E1 Memorandum – 2019 NCLEX Pass Rates

E2 Memorandum – Nursing Education Programs Closed in 2019

E3 Memorandum – Nursing Education Program Application Update

E4 Education Special Informal Conference Schedule
E5 Nursing Education and Nurse Aide Education Programs Update
E6 Education Special Conference Committee July 8, 2020 Minutes and Recommendations

F1 Status of Regulatory Actions
F2 Report of the 2020 General Assembly

DISPOSITION OF
MINUTES:

None

REPORTS:

C2 Financial Report as of May 31, 2020:

Dr. Gleason asked for the clarification of \$70,172.07 in Postal Services on page 3 of the report. Ms. Douglas replied that this was the cost of mailing of cases and licenses. Ms. Douglas noted that the increase in size and the number of cases contributed to the cost increase. Ms. Douglas stated that this cost should decrease since the Board is now utilizing paperless licensing.

Ms. Hershkowitz moved to accept C2 report as present. The motion was second and carried unanimously.

LEGISLATION/
REGULATION:

F3 Adoption of Final Regulations – Exempt Action to Regulations for the Licensure of Massage Therapy (18VAC90-50-40)

Ms. Yeatts stated that amendments to 18VAC90-50-40 by exempt action is needed to conform with HB1121(Educational programs and qualifications of foreign-trained massage therapists) that was passed by General Assembly in 2020.

Ms. Yeatts suggested adding the word “*educational*” right after “**therapy**” in 18VAC90-50-40.A.2 to ensure applicants must graduate from a massage therapy education program with minimum of 500 hours of training instead of just completing the 500 hours of training.

Mr. Monson moved to adopt 18VAC90-50-40 by Exempt Action with additional suggested amendment. The motion was seconded and carried unanimously.

F4 Proposed Amendments to Regulations for use of Simulation in Nursing Education by a Fast-Track Action

Ms. Yeatts stated that the motion to adopt the amendments to regulations for the use of Simulation in Nursing Education by a fast-track action is needed.

Ms. Yeatts noted that Notice of Intended Regulatory Action (NOIRA) was published on February 3, 2020 and the comment period ended on March 4, 2020 with no comments received.

Dr. Dorsey asked if the Board can publish the amendments of regulations for additional public comment before taking action.

Ms. Yeatts suggested that the Board can adopt as proposed regulations instead of adopting by fast-track action. Ms. Yeatts added that this will require the Board to publish the regulations for additional public comment of 60 days.

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

F5 Proposed Amendments to the Regulations for Waiver of Electronic Prescribing for Practitioners

Ms. Yeatts stated that adoption of the proposed amendments is needed to replace emergency regulations currently in effect.

Ms. Yeatts added that a Notice of Intended Regulatory Action (NOIRA) was published on January 6, 2020 and the comment period ended on February 5, 2020 with no comments received.

Ms. Douglas noted that the Board approved about 250 waivers for economic hardship, technological limitations, or other exceptional circumstances that are good for one year only and cannot be further extended. Ms. Douglas added that as of July 1, 2021, all prescriptions for drugs containing an opioid must be transmitted to a pharmacy electronically.

Ms. Yeatts said that the Board of Medicine will adopt amendments at its August meeting.

Mr. Monson moved to adopt the proposed amendments as presented. The motion was seconded and carried unanimously.

F6 Adoption of Final Regulations for Clinical Nurse Specialist Registration

Ms. Yeatts stated that Board action is needed in response to a petition for rulemaking. Ms. Yeatts noted that most comments received are in support of the proposed changes to the regulations for Clinical Nurse Specialists.

Mr. Hermansen-Parker moved to adopt the final amendments identical to the proposed regulations as presented. The motion was seconded and carried unanimously.

PUBLIC COMMENT: Howie Goodman, President of Virginia Association of Nurse Anesthetists (VANA) acknowledged Ms. Hershkowitz' contribution to the VANA and their appreciation for her service on the Board of Nursing.

CONSIDERATION OF CONSENT ORDERS:

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 9:45 A.M. for the purpose of considering the Consent Orders. Additionally, Dr. Gleason moved that Ms. Douglas, Dr. Hills, Ms. Wilmoth, Ms. Ridout, Ms. Willinger, Ms. Morris, Ms. Iyengar, 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 9:51 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.

G1 Erica Crenshaw Lawal, RN **0001-188174**

Ms. Hershkowitz moved to accept the consent order to indefinitely suspend the license of Erica Crenshaw Lawal to practice professional nursing in the Commonwealth of Virginia with suspension stayed contingent upon Ms. Lawal'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 Michele K. Lucht, RN **0001-180884**

Ms. Hershkowitz moved to accept the consent order of voluntary surrender for indefinite suspension of Michele K. Lucht's license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

G3 Hye Kyung Lee, LMT **0019-015260**

Ms. Hershkowitz moved to accept the consent order of voluntary surrender for revocation of Hye Kyung Lee's license to practice massage therapy in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

G4 Tiffany Cheyenne Thompson, RN

0001-179813

Ms. Hershkowitz moved to accept the consent order of voluntary surrender for indefinite suspension of Tiffany Cheyenne Thompson's license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

ADJOURNMENT:

The Board adjourned at 10:00 A.M.

Marie Gerardo, MS, RN, ANP-BC
First Vice-President