

VIRGINIA BOARD OF NURSING
MINUTES
May 16, 2017

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on May 26, 2017 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President

BOARD MEMBERS PRESENT:

Marie Gerardo, MS, RN, ANP-BC; Secretary
Guia Caliwagan, RN, MAN, EdS
Alice Clark, Citizen Member
Jeanne Holmes, Citizen Member
Kelly McDonough, DNP, RN
Mark D. Monson, Citizen Member
Jennifer Phelps, LPN, QMHPA
Rebecca Poston, PhD, RN, CPNP-PC
Dustin Ross, DNP, MBA, RN, NE-BC
William Traynham, LPN, CSAC

BOARD MEMBERS ABSENT:

Louise Hershkowitz, CRNA, MSHA; Vice President
Regina Gilliam, LPN
Trula Minton, MS, RN

STAFF PRESENT:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Jodi P. Power, RN, JD; Deputy Executive Director
Stephanie Willinger; Deputy Executive Director
Linda Kleiner, RN, Discipline Case Manager
Paula B. Saxby, RN, PhD; Deputy Executive Director
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Huong Vu, Executive Assistant

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel
David E. Brown, DC, Department of Health Professions Director
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

IN THE AUDIENCE:

Sarah Heisler representing Virginia Hospital and Healthcare Association (VHHA)
Janet Wall representing the Virginia Nurses Association (VNA)
Andrew Lamar representing Virginia Nurses Association (VNA)

ESTABLISHMENT OF A QUORUM:

With 11 members present, a quorum was established.

ANNOUNCEMENTS: Dr. Hahn noted the announcements on the Agenda. Ms. Douglas added that Arlene Johnson, formerly a temp at the Board Call Center, has accepted the full-time Receptionist position with the Board.

UPCOMING MEETINGS: Dr. Hahn noted the upcoming meetings on the agenda. Ms. Douglas added that she, Mr. Monson, Ms. Phelps, and Dr. Ross will be attending the NCSBN Annual Meeting in August 2017. She noted that no other Board staff will attend this time.

ORDERING OF AGENDA: Dr. Hahn asked staff to update the Board on the additions and/or modifications of the Agenda.

Ms. Douglas indicated an additional Consent Order regarding Sheri Randolph Bradshaw, RN has been added to the agenda for Board consideration.

Ms. Power added the following:

- An additional Consent Order regarding Paul Howard Werbin, RN has been added to the agenda for Board consideration.
- On Wednesday, May 17, Panel A - Brittany Johnson, CNA (#5) will attend and written responses have been received from #13, # 25, and # 37 for consideration of the Agency Subordinate recommendations. Ms. Caliwagan will attend the Formal Hearings of Gregory and Harris in place of Dr. Ross.
- On Wednesday, May 17, Panel B – Carmel Snyder, CNA (#6) will attend and written responses have been received from #4 and # 34 for consideration of the Agency Subordinate recommendations. Also Ms. Minton will not be available for the Formal Hearings.
- The Formal Hearings of Adefoku and Salyer on Thursday, May 18, 2017 have been continued.

CONSENT AGENDA: The Board removed the Health Practitioners' Monitoring Program (HPMP) reports from the consent agenda.

Ms. Douglas reviewed the new format and inclusion of the HPMP Quarterly report from January through March 2017 which indicated the number of stays, admissions, vacated stays and dismissals. Ms. Douglas noted that Nursing and Medicine participants are the majority of participants.

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

Mr. Monson moved to accept all the minutes`. The motion was seconded and carried unanimously.

Minutes:

March 20, 2017 Panel - Dr. Hahn
March 21, 2017 Quorum – Dr. Hahn
March 22, 2017 Panel A – Dr. Hahn
March 22, 2017 Panel B – Ms. Hershkowitz
March 23, 2017 Panel – Ms. Hershkowitz
April 12, 2017 - Possible Summary Suspension Telephone Conference Call

Reports:

Agency Subordinate Tracking Log
Finance Report
Nursing Monthly Tracking Log-Licensure and Disciplinary Statistics
Health Practitioners Monitoring Program

DIAGLOGUE WITH DHP
DIRECTOR:

Dr. Brown provided the following information:

- Board of Nursing has provided leadership to the Agency and Dr. Brown thanked Board Members and Staff for their hard work.
- 40% increase in deaths due to opioid overdose from 2014 to 2016 per Office of Medical Examiner, as result:
 - Board of Medicine reconvened the Regulatory Advisory Panel (RAP) on May 15, 2017 to consider potential changes to opioid regulations driven by providers and stakeholders recently adopted in effort to provide clear guidance of prescribing and direction for acute pain management
- Medicaid/FAMIS – there are about one million people covered in this program and an estimated of 200,000 people have substance abuse, which are six times the rate of non-Medicaid. The 2016 legislation allowed money for Department of Medical Assistance Services (DMAS) to increase rates to providers who treat addiction through Addiction Recovery Treatment Services (ARTS).
- Medication Administration Training (MAT) and other provider training - Federal regulation changes to now allow Nurse Practitioners and Physician Assistants to treat opioid addiction after completing additional 16 hours of training.
- DMAS, Managed Care Organization (MCO) and other plans are aligned with CDC guidelines to incentivize opioid treatment, resulting in fewer opioid prescriptions.

Ms. Phelps expressed concern regarding the inability to implement REVIVE program at Community Services Boards (CSBs) due to lack of Department of Behavioral Health and Development Services (DBHDS) polices in place. Dr. Brown offered to forward the concern.

REPORTS:

Executive Director Report:

Ms. Douglas highlighted the following from her written report:

- Board staff are working on needed modifications in the DHP's database with DHP IT to comply with the enhanced version of Nurse License Compact (eNLC), which is expected to go into effect Fall 2017. Georgia and West Virginia have now joined the Nurse License Compact.
- Dr. Brown and Board Staff met recently with representatives of the Virginia Hospital and Health Care Association (VHHA) and Chief Nursing Officers (CNOs) concerning nursing licensure processes. Concerns/suggestions related to delays that may occur during high volume times were identified and a plan to meet again in September was established. The following process improvement and future plans were shared with VHHA:
 - There are three additional full-time positions (two licensing and 1 compliance) approved for the Board.
 - Dr. Brown has asked IT to develop a mechanism for 30-day authorization letters to be verified through the Board website directly
 - License Look up is now real time
 - Board Call Center has been implemented and is a positive addition
 - Increased electronic communication with applicants, as well as dedicated e-mail addresses
 - Schools can provide letters of attestation of graduation instead of individuals' transcripts per regulation changes
 - Redesigning workflow of licensing staff
 - Checklist improvements in MLO (MyLicense Office)
 - DHP Licensure Workgroup established to share information throughout the Agency and to look at process improvement
 - DHP Paperless Workgroup is researching options to issue paperless licenses and increase self-service options
 - DHP is looking at redesigning its website
- The Criminal Background Check (CBC) Unit has experienced a delay in receiving CBC results due to issues at Virginia State Police (VSP). Fieldprint, Board Vendor, was instructed not to forward prints to VSP for several days in April and May resulting in a backlog which impacts licensing of RN's and LPN's.
- The process for licensure by endorsement for graduates of foreign nursing education programs is lengthy due to the requirement for CGFNS Review. There is an opportunity to look at this requirement if a previous state has conducted CGFNS Review.
- Effective July 1, 2017, the 25% renewal fee reduction for all licensees, except for nurse aides, will go into effect as a one-time only action.

Ms. Douglas thanked Board staff for their hard work during vacancies. Ms. Douglas added that the Board is awaiting approval from downtown for replacement of Deputy position, there will be a change in terms of responsibility of this position and reporting structure.

CBC Committee March 21, 2017 minutes and recommendations:

Dr. Hahn thanked Board Members and Staff for their work and noted that CBC Committee met on March 21, 2017 to review calendar year 2016 data and need for any recommended changes. She added the recommendations are:

- No change in Guidance Document 90-10
- Modify Guidance Document 90-12 to add *“Said PHCO may be offered at the discretion of staff considering factors such as whether the conviction would have been cause for denial, the recency of the conviction, and explanation provided for such non-disclosure.”*
- Revisit the criminal conviction screening question on Board applications to improve clarity, reduce confusion, and help consistency in accurate responses.

Ms. Phelps moved to accept the CBC Committee’s recommendations as presented. The motion was seconded and passed unanimously.

Dr. Hahn indicated that the CBC Committee does not need to meet again and will move forward with reporting annual data to the Board.

Revision of Guidance Document 90-6 (PICC Line Insertion and Removal) Committee March 21, 2017 minutes and recommendations:

Ms. Douglas reported that the Committee met on March 21, 2017 along with Fran Conklin, Pediatric Clinical Nurse IV, from Centra Health in reviewing the rationale for needed changes to GD 90-6. Ms. Douglas noted that Ms. Conklin presented information that show other technologies that are now available in all settings. Ms. Douglas added that revision of GD will be sent out to stakeholders for comments before presenting to the Board for action.

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

PUBLIC COMMENT:

Janet L. Wall, CEO of Virginia Nurses Association (VNA) and Virginia Nurses Foundation (VNF), provided the following comments:

- Spring Conference in April 2017 on “Nursing Ethics and Moral Distress” was sold out. VNA and VNF will be making segments available for CEs.
- Healthy Nurse, Healthy Nation - American Nurses Association’s (ANA) initiative has started “Take 5” initiation for three weeks.

- VNA's fall conference, September 15-16, 2017, in Richmond at the Omni will focus on staffing issues, and will be held in partnership with ANA. She added that this is viewed as the launching point for ongoing discussions.
- Chapter Leader Summit – focus on outreach and leadership
- VNA is planning work on the opioid crisis.

RECESS: The Board recessed at 10:12 AM

RECONVENTION: The Board reconvened at 10:25 AM

REPORTS (cont.): **Nurse Aide Curriculum Committee March 21, 2017 minutes:**
Dr. Hahn reviewed the highlights of the Committee which met on March 21, 2017 noting:

- The 2015-2016 pass-rates for the NNAAP (nurse aide) exam are now available on the Board website and the DNP student will prepare a chart of the pass-rates by type of program
- The Committee will be recommending a change in hours to include 60 didactic hours, 40 skills practice hours, and 40 direct client care (clinical) hours. In addition, the Committee will also recommend a requirement in regulations for a train-the-trainer course every five years for all nurse aide faculty

Dr. Hahn noted that the Committee plans to meet again in July 2017.

POLICY FORUM: Dr. Carter, Healthcare Workforce Data Center (HWDC) Executive Director, reported the following:

The 2015 – 2016 Education Survey:

- The number of new students who were admitted into Virginia's PN programs declined by 8% where as the number of enrolled students who graduated from these programs barely changed
- Admission to Virginia's RN programs increased by 3%, whereas the number of graduates decreased by 3%. However, the number of graduates is still the second highest in the past decade

Consideration of Additional Education Survey questions:

Dr. Carter noted that Secretary Hazel has asked that the Nursing Education Program Survey include new items that will enable tracking of pre-graduation or high stakes testing that may prohibit student completion from the nursing program. She asked the Board for its consideration of the requested new questions. Mr. Traynham moved to add these new questions to the survey. The motion was seconded and passed unanimously.

REPORTS (cont.):

NCSBN CORE Committee Report Summary 2016: Licensure:

Dr. McDonough highlighted from the written report provided of NCSBN CORE Committee review of Licensure 2016 report noting:

- Low response rate from employers and educators
- 83.1% Virginia nurses provided safe and competent care
- The number of applicants by initial exam has declined
- The number of applicants by endorsement has steadily increased from 56,012 in 2012 to 58,867 in 2016 in Virginia
- Themes noted employers are not sure that new nurses are consistently safe and competent to practice. Educators believe regulations should provide clearer guidance for supervision of students. Nurses request improved website, podcasts, and publications from Virginia Board of Nursing.

NCSBN APRN Roundtable April 4, 2017 Report:

Dr. Hahn noted that Ms. Hershkowitz' written report is provided as information only.

Committee of the Joint Boards of Nursing and Medicine April 12, 2017 Business meeting minutes:

Ms. Douglas reviewed the April 12, 2017 Committee meeting minutes in absence of Ms. Hershkowitz and noted that there was lack of a quorum. She reported that discussion included opioid pain management regulations and that e-mail communication will be sent to all license nurse practitioners.

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

OTHER MATTERS:

Board of Nursing Appeals Update:

Ms. Mitchell, Board Counsel, stated that there are not any appeals in process.

Consideration of Expert Witness Standards:

Ms. Mitchell reported that one Board of Medicine (BOM) appeal was filed in the Court of Appeals and the Court ruled BOM erred in not allowing Respondent to testify as expert witness. In light of this action, the Office of Attorney General recommends each Board at DHP adopt a standard of expert testimony.

Ms. Mitchell added that for the sake of consistency with other Boards, she recommended BON adopt Traditional Virginia Standard.

Mr. Monson moved to adopt the Traditional Virginia Standard for BON expert witness testimony. The motion was seconded and passed unanimously.

Volunteer Surrender Option:

Ms. Mitchell and Ms. Douglas reviewed authority in law of ability to accept volunteer surrender of a license. Ms. Douglas commented that in the past BON has coupled a voluntary surrender with an indefinite suspension. Ms. Douglas noted that several recent cases would be appropriate for voluntary surrender due to medical issues and no practice issues. Ms. Douglas asked the Board to consider delegating authority to staff to offer a Pre-Hearing Consent Order (PHCO) for voluntary surrender in certain cases by adding the language to Guidance Document 90-12.

Mr. Traynham moved to authorized staff to offer PHCO for voluntary surrender in certain cases by adding the language to Guidance Document 90-12. The motion was seconded and passed unanimously.

Proposed 2018 Board Meeting Dates:

Ms. Douglas noted that the meeting dates for 2018 are unusual due to lack of room availability. She added that staff will continue to monitor room availability and update Board on changes in meeting dates for 2018.

Guidance Document 90-57 Committee:

Dr. Hahn noted that the Committee will meet following the July Business meeting.

Consideration of Draft Guidance Document of Continuing Competency Violations for Registered Nurses and Practical Nurses:

Ms. Douglas stated that Board asked staff to draft a Guidance Document (GD) regarding Continued Competency Violations for RNs/LPNs similar to that in place for LNP's. She added that the draft GD is presented for Board consideration and action.

Mr. Monson moved to accept the GD as presented. The motion was seconded and passed unanimously.

Discussion of Board Members' review of Book "You can't lie to me" by Janine Driver:

Dr. Hahn noted that Board will conduct this during its lunch.

EDUCATION:

Education Special Conference Committee May 10, 2017 Minutes and Recommendations:

Dr. Hahn reviewed the May 10, 2017 Committee works as referenced in minutes and two recommendations for Board consideration and action.

Mr. Monson to accept the minutes and recommendations as presented. The motion was seconded and passed unanimously.

Education Staff Report:

Dr. Saxby indicated positive response to change in process referencing transcripts. She noted that due to change in regulations, the Board accepts a letter from schools regarding each graduating class verifying students have met requirements. This letter is provided in lieu of individual transcript.

Dr. Saxby reported that VHHA raised concern with NCLEX testing site availability. She stated that this was researched with PearsonVUE and the data indicates this is not an issue.

Ms. Ridout reported on the following:

- She has conducted several sessions at the BON and other areas of the state to update existing programs or familiarize new programs with changes within regulations.
- In the Fall, there will be a session in Hampton Road area.

Ms. Douglas added that Board Members can attend these sessions if they wish to do so.

Update on Nurse Aide Testing:

Dr. Saxby reported on transition for nurse aide testing to an online application process as follows:

- Credentia is now the new contractor and provides scheduling
- PearsonVUE provides testing which is now online instead of pen and paper
- May 19, 2017 is the first day of testing following a blackout period necessary for installation of the new system.

Dr. Saxby noted that currently there is higher volume than anticipated given spring graduation and the transition is in trouble-shooting phase.

BON Members Transition:

Dr. Hahn thanked the Board Members whose terms are ending the end of June 2017 for their service. She encouraged them to attend July Board meetings if they are not replaced.

Mr. Traynham and Ms. Holmes praised and thanked the Board for the experience and stated that they will not be available for the July Board meetings but will attend their June Informal Conferences.

Ms. Caliwagan stated that it has been a great learning opportunity and thanked everyone.

LEGISLATION/
REGULATION:

Status of Regulatory Action:

Ms. Yeatts reviewed the chart of regulatory actions, as provided in written handout, noting:

- One-time reduction in renewal fees beginning with July 2017 renewals
- Name tag and accreditation of nursing education programs are at the Governor's Office for approval
- Prescribing of opioids regulations:
 - Emergency regulations were effective on May 8, 2017 and will expire on November 7, 2018. BON and BOM will need to replace with permanent regulations.
 - Comments on NOIRA are from May 29 through June 28, 2017
 - BOM Regulatory Advisory Panel (RAP) convened on May 15, 2017 to re-adopt the emergency regulations in effort to provide clear guidance of prescribing and detail direction of acute pain management. It will be considered at the BOM Full Board on June 22, 2017
 - The Committee of the Joint Boards of Nursing and Medicine will consider the regulations on June 7, 2017.
 - The BON will consider the regulations at its July 18 meeting.

Committee of the Joint Boards Business Meeting on June 7, 2017:

Ms. Douglas asked Board members to let her know of their availability to attend the Informal Conference following the business meeting regarding a nurse practitioner case.

CONSIDERATION OF CONSENT ORDERS:

CLOSED MEETING:

Ms. Phelps moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 11:43 A.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Phelps moved that Ms. Douglas, Ms. Power, Ms. Krohn, Ms. Willinger, Dr. Saxby, Ms. Kleiner, Ms. Ridout, 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 11:46 A.M.

Ms. Phelps 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.

Valerie Dawn Thomas, LPN 0002-083830

Mr. Monson moved to accept the consent order of voluntary surrender for indefinite suspension of the license of Valerie Dawn Thomas to practice practical nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Marguerite S. Wolf, RN 0001-251148

Mr. Monson moved to accept the consent order of voluntary surrender for indefinite suspension of the license of Marguerite S. Wolf to practice professional nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Myra Jo Easter, RN 0001- 159451

Mr. Monson moved to accept the consent order to reinstate the license of Myra Jo Easter to practice professional nursing in the Commonwealth of Virginia and to indefinitely suspend her license, and said suspension is stayed and remains stayed contingent upon Ms. Easter'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.

Melanie Jane Zygmunt Sepmoree, RN 0001-230118

Mr. Monson moved to accept the consent order to reinstate the license of Melanie Jane Zygmunt Sepmoree to practice professional nursing in the Commonwealth of Virginia without restriction. The motion was seconded and carried unanimously.

Kara Nicole Wilder, LPN 0002-092165

Mr. Monson moved to accept the consent order to reinstate the license of Kara Nicole Wilder to practice practical nursing in the Commonwealth of Virginia without restriction. The motion was seconded and carried unanimously.

Sheri Randolph Bradshaw, RN 0001-179588

Mr. Monson moved to accept the consent order to reinstate the license of Sheri Randolph Bradshaw to practice professional nursing in the Commonwealth of Virginia without restriction. The motion was seconded and carried unanimously.

Paul Howard Werbin, RN 0001-090514

Mr. Monson moved to accept the consent order to indefinitely suspend the license of Paul Howard Werbin to practice professional nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege, and said suspension is stayed contingent upon Mr. Werbin's entry into the Virginia Health Practitioners' Monitoring Program (HPMP) and

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compliance with all terms and conditions of the 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 11:47 A.M.

Joyce Hahn, PhD, RN, NEA-BC, FNAP
President