

**VIRGINIA BOARD OF NURSING
MINUTES
March 15, 2005**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on January 31, 2005, in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Louisa Lief, R.N., M.S.N., President

**BOARD MEMBERS
PRESENT:**

Judith E. Piersall, R.N., B.S.N., Vice President
Gregory J. Huber, R.N., M.S.N., Secretary
Lynne M. Cooper, Citizen Member
Linda D. Gross, Citizen Member
Brenda L. Hale, R.N.
Woody B. Hanes, R.N., M.S.N., F.N.P.
Louise Hartz, Citizen Member
Carol E. King, L.P.N., M.S.
Brenda L. Spady, L.P.N.
JoAnn Tillett, R.N.
Janet B. Younger, R.N., P.N.P., Ph.D.

**BOARD MEMBERS
ABSENT:**

Julia C. Semple, L.P.N.

STAFF PRESENT:

Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director, Nurse Aide Registry
Manager
Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant
Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Cindy Cochran, R.N., Discipline Case Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General
Robert Nebiker, Director, Department of Health Professions
Elaine Yeatts, Regulatory Analyst, Department of Health Professions
Jan Johnson, Executive Director, Virginia Nurses Association

**ESTABLISHMENT OF
A QUORUM:**

With 12 members of the Board present, a quorum was established.

ANNOUNCEMENTS:

- NCSBN Mid-year meeting, March 21 – 23, 2005 Chicago (change in venue)
- NCSBN Delegate Assembly, August 2 – 5, 2005, Washington DC
- Committee of the Joint Boards of Nursing and Medicine meeting April 13, 2005
- Janita Royal accepted full time administrative assistant discipline position

DIALOGUE WITH

AGENCY DIRECTOR:

Mr. Nebiker led discussions on the following issues:

- status of nurse aide funding
- 2006 – 2008 budget preparation has begun, the Board of Health Professions will review in July
- Board of Nursing has been given statutory responsibility to regulate medication aides
- encouraged the Board to use to the full extent as practical and appropriate the regulations for delegation to an agency subordinate to manage the disciplinary case load

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA:

Ms. Hartz moved to accept the consent agenda which includes:

Minutes:

January 24, 2005 – Panel – Dr. Younger
January 25, 2005 – Discipline Committee
January 25, 2005 – Board Meeting – Dr. Younger
January 26, 2005 – Quorum – Dr. Younger
January 26, 2005 – Panel – Dr. Younger
January 26, 2005 – Panel – Ms. Lief
January 27, 2005 – Panel – Ms. Lief
February 8, 2005 – Telephone Conference Call – Ms. Lief
February 18, 2005 – Telephone Conference Call – Ms. Piersall

Reports:

Finance Report

Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics

Examinations:

NNAAP

NCLEX

Probation Completed

Successful Completion of Health Practitioners Intervention Program

REPORTS:

Health Practitioners Intervention Program:

Ms. Douglas reported a reduction in availability of substance abuse treatment services in some parts of the state has resulted in the HPIP staff having difficulty locating treatment alternatives for participants. Also noted was the gradual decrease over time of the total number of nursing participants in the Health Practitioners Intervention Program.

Executive Director Report:

(see attached report)

Nurse Licensure Compact:

Ms. Douglas provided an update on activity.

- clean up of licensure records ongoing
- will attend NLC Administrators meeting next week in Chicago

Board Counsel Report:

Mr. Casway reported on the Joanne Boland case that was appealed to Circuit Court. The court upheld the Board's decision.

Clinical Nurse Leader:

Dr. Saxby reported she attended a conference in Washington, D.C. on January 27 & 28, 2005 sponsored by the American Association of Colleges of Nursing. The conference focused on the role of the Clinical Nurse Leader and how to regulate this new enhanced generalist practice role. The role is not intended to be equivalent to the CNS or Nurse practitioner role. There are three proposed pilot projects that will occur at Nursing schools in Virginia. GMU and Shenandoah University are proposing starting a masters degree program in fall 2005; candidates will have to have a BSN and licensure as an RN to be admitted into the program. UVA is proposing a second degree program that will lead to a masters degree **and** eligibility to take the NCLEX-RN exam. Discussion also clarified that this is program does not lead to an advance practice license.

OTHER MATTERS:

Participation in NCSBN-TERCAP:

Cindy Cochran, R.N. has participated in web based training offered by NCSBN. Taxonomy of Error, Root Cause Analysis and Practice Responsibility data will be collected on 5 disciplinary cases and reported to NCSBN. A report of data collected from all states will be presented at the mid year meeting in August 2005.

2005 Legislative and Regulatory Update:

Ms. Yeatts provided a review of the regulatory action flow chart.

RECESS:

The Board recessed at 10:15 A.M.

RECONVENTION:

The Board reconvened at 10:35 A.M.

On-line Nurse Practice Act Course:

Mr. Huber reported approval by legal counsel is needed before submission to National Council of State Boards of Nursing.

Sanction Reference Study:

Ms. King reviewed the minutes from the meeting and that data is being collected by Mr. Kauder.

Agency Subordinate:

Dr. Younger moved to table to the May 2005 meeting the issue of affording a respondent the opportunity to appear before the Board when the Board is considering the agency subordinate recommended decision. The motion was seconded and carried unanimously.

Dr. Younger moved to ask staff in coordination with Administrative Proceedings Division to revise the agency subordinate recommendation decision document and bring to the May 2005 meeting for discussion.
The motion was seconded and carried unanimously.

RECESS: The Board recessed at 12:25 P.M.

RECONVENTION: The Board reconvened at 1:25 P.M.

Mr. Nebiker and Ms. Yeatts left the meeting.

CONSIDERATION OF
AGENCY SUBORDINATE
RECOMMENDATIONS:

Valerie Stewart C.N.A. 1401-019325

Ms. Stewart appeared.

CLOSED SESSION: Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 1:27 P.M. for the purpose of consideration of the recommendation of the agency subordinate. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Power, Dr. Saxby, Ms. Rosen, Ms. Ressler, Ms. Cochran, Mr. Casway 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.

Ms. Lief did not participate.

RECONVENTION: The Board reconvened in open session at 1:31 P.M.

Mr. Huber 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. Younger moved to accept the recommended decision of the agency subordinate decision and to adopt an order to reprimand Ms. Stewart and further enter a finding of abuse.
The motion was seconded and carried unanimously.

Eloise Langley, C.N.A. 1401-005975

Ms. Langley appeared.

CLOSED SESSION: Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 1:40 P.M. for the purpose of consideration of the recommendation of the agency subordinate. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Power, Dr. Saxby, Ms. Rosen, Ms. Ressler, Ms. Cochran, Mr. Casway 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.

Ms. Lief did not participate.

RECONVENTION:

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

Mr. Huber 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. Hartz moved to reject the agency subordinate recommended decision and moved to dismiss the case due to insufficient evidence of a violation.

The motion was seconded and carried. Ms. Cooper, Ms. Gross, Ms. Hale, Ms. Hartz, Mr. Huber, Ms. King, Ms. Spady voted in favor of the motion. Ms. Hanes, Ms. Piersall, Ms. Tillett, Dr. Younger opposed the motion.

Janice Newbill, C.N.A. 1401-086275

Ms. Newbill did not appear.

Cortina Ragsdale, C.N.A. 1401-074736

Ms. Ragsdale did not appear.

CLOSED SESSION:

Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 2:03 P.M. for the purpose of consideration of the recommendation of the agency subordinate. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Power, Dr. Saxby, Ms. Rosen, Ms. Ressler, Ms. Cochran, Mr. Casway 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 2:05 P.M.

Mr. Huber 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. Hartz moved to accept the agency subordinate recommended decision and to adopt an order to reprimand Ms. Newbill.

The motion was seconded and carried. Ms. Lief presided, but did not participate.

Ms. Tillett moved to accept the agency subordinate recommended decision and to adopt an order to reprimand Ms. Ragsdale.

The motion was seconded and carried. Ms. Lief presided, but did not participate.

CASE ADJUDICATION: **Consent Orders:**

CLOSED SESSION: Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 2:05 P.M. for the purpose of consideration and discussion of consent orders. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Power, Dr. Saxby, Ms. Rosen, Ms. Ressler, Ms. Cochran, Mr. Casway 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 2:12 P.M.

Mr. Huber 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 Crutchley, R.N. 0001-165940

Ms. Tillett moved to accept the Consent Order for the voluntary surrender and indefinite suspension of Ms. Crutchley's license to practice as a registered nurse.
The motion was seconded and carried. Ms. Spady abstained.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Melinda Ross, R.N. 0001-140614

Ms. Tillett moved to accept the Consent Order for the indefinite suspension of Ms. Ross's registered nurse license.
The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Gwendolyn K. Brannan, R.N. 0001-140721

Ms. King moved to accept the Consent Order for the voluntary surrender and indefinite suspension of Ms. Brannan's registered nurse license.
The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Teddy R. Maddux, RN applicant

Ms. Hartz moved to accept the Consent Order to approve Ms. Maddux's application for licensure as a registered nurse and place Ms. Maddux on probation with terms.
The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Ms. Gross left the meeting.
Ms. Yeatts re-joined the meeting.

OTHER MATTERS
CONTINUED:

Preliminary Regulation Review:

Ms. Yeatts reported the Notice of Periodic Review has been sent to the Registrar. Public comment period will be April 4, 2005 to May 4, 2005 for Chapter 20 of the Board of Nursing regulations and Chapter 25 of the Nurse Aide regulations.

Dr. Younger reported that the Legislative/Regulatory Review Committee will meet following today's business meeting. The Committee will begin a preliminary review of nursing regulations focusing on the nursing education section. The Committee will also review the National Council of State Boards of Nursing model regulations.

Confidential Consent Agreements:

Ms. Rosen reported a total of 30 confidential consent agreements have been offered to certified nurse aides and approximately 25 have been accepted and entered. 29 confidential consent agreements have been offered to registered nurses and licensed practical nurses and 25 have been accepted and entered. 2 confidential consent agreements have been offered to nurse practitioners and both have been accepted and entered.

EDUCATION
PROGRAMS:

Education Special Conference Committee:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on March 14, 2005.

Dr. Saxby brought to the Boards attention the approval of an application to establish a nursing education second degree program through collaborative agreements between George Mason University, Marymount University, Shenandoah University and INOVA Health System.

Ms. Hanes moved that the Board of Nursing adopt the recommendations. The motion was seconded and carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 2:45 P.M.

Gregory J. Huber, R.N., M.S.N.
Secretary

Executive Director Report
March 2005

Nurse Aide:

Staff completed the self-assessment of the Nurse Aide Registry for submission to federal CMS-Survey and Certification Group on January 31, 2005. Compliance was reported in all required areas, with improvements being instituted in 2 areas: 1) piloting an automated, electronic process for communicating, reviewing, and jointly reporting (with the state survey agency) disciplinary actions against C.N.A.s with findings of abuse, neglect, misappropriation of resident property, to allow for a more efficient, and more frequent process. This pilot will involve enhancing our Recent Case Decisions available on the website and coordination with Department of Health – Center for Quality Health Care Services and Consumer Protection, which is planned for the end of February 2005; 2) making an additional finding statement in disciplinary Orders where a finding of abuse, neglect or misappropriation is made against a C.N.A.s, if the respondent participated in the investigative process or administrative proceeding, and disputes or denies the finding.

Nurse Aide Exam - Staff participated in a monthly conference call with Promissor and the American Red Cross of the Susquehanna Valley, the testing vendors for the nurse aide exam. Discussion centered on scheduling nurse aide candidates in a timely manner, as well as, exploring in-facility testing and adding regional test sites. The American Red Cross continues to add staff and train them for scheduling and customer service.

2005 National Survey of State Direct Care Workforce Initiatives - Nurse Aide Registry staff was contacted by the Commissioner of Dept of Aging (Jay DeBoer) regarding the need to respond to the above survey. He is coordinating response for Virginia, but notified the Board of Nursing/Nurse Aide Registry and DMAS for information to assist in the response. Any information we wish to provide in response to the survey is requested to be submitted by February 21, 2005. Staff will review and provide relevant information by that date.

Meetings:

Staff attended a conference in Washington, D.C. on January 27 & 28, 2005 at the American Association of Colleges of Nursing. The conference focused on the role of the Clinical Nurse Leader and how to regulate this new enhanced generalist practice role. The role is not intended to be equivalent to the CNS or Nurse practitioner role. There are three proposed pilot projects that will occur at Nursing schools in Virginia. GMU and Shenandoah University are proposing starting a masters degree program in fall 2005; candidates will have to have a BSN and licensure as an RN to be admitted into the program. UVA is proposing a second degree program that will lead to a masters degree **and** eligibility to take the NCLEX-RN exam. UVA will be submitting an application to the Board of Nursing for the March 2005 Board meeting. Their plan is to begin the program in fall 2005.

Virginia Nurses Association Annual Legislative Day – The Executive Director presented to participants of this conference on Wednesday, February 2, 2005. Two sessions on the Nurse Licensure Compact were provided to approximately 200 participants.

The Executive Director provided a presentation on the Nurse Licensure Compact to a group of fifty (50) medical staff coordinators from the Tidewater area. Participants were also interested in information about Nurse Practitioner protocols and practice agreements as they are responsible for credentialing these individuals.

Board of Nursing staff met March 1, 2005 with DHP Central Regional Investigators to present information on the NLC and the Board of Nursing's use of Confidential Consent Agreements.

Board Staff will attend the Legislative Coalition of Virginia Nurses Meeting and the Virginia Partnership for Nursing Meeting on Friday, March 4th.

On Thursday, March 3rd, the Deputy Executive Director for Discipline will present “The Regulatory and Statutory Aspects of Advanced Practice”, to the UVA graduate Nurse Practitioner students.

National Council of State Boards of Nursing Discipline Conference Call – Board of Nursing, Compliance, and Enforcement staff participated in a NCSBN conference call on Thursday, February 17, 2005 to discuss disciplinary matters. All states participated. The topic for discussion was impaired nurses and relapse issues. Linda Smith from the Florida impaired nurses program reported that research indicates the recidivism rate for nurses who are monitored by the regulatory approach (i.e. probation) versus alternative programs is about the same. Most states reported that current length of contracts for alternative programs is 5 years. Research indicates that if individuals are able to maintain recovery for 5 years, they have a 90% chance of maintaining recovery. Linda Smith shared a successful method of providing monitoring of nurses through alternative program staff facilitated groups in locations throughout the state.

**VIRGINIA BOARD OF NURSING
SPECIAL CONFERENCE COMMITTEE
March 15, 2005**

TIME AND PLACE: The meeting of the Special Conference Committee of the Board of Nursing was convened at 3:30 P.M., in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

MEMBERS PRESENT: Louisa Lief, R.N., M.S.N.
JoAnn Tillett, R.N.

STAFF PRESENT: Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline
Jane Elliott, R.N., Ph.D., Discipline Staff

PRESENTED FOR CLOSURE/ADVICE:

CLOSED MEETING: Ms. Tillett moved that the Special Conference Committee of the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 3:30 P.M. for the purpose of deliberation regarding case disposition. Additionally, Ms. Tillett moved that Ms. Rosen and Dr. Elliott 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 5:00 P.M.

Ms. Tillett moved that the Special Conference Committee of 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.

Investigative reports regarding thirteen registered nurses and twenty-two licensed practical nurses, and one certified massage therapist were reviewed.

ACTION: Ms. Lief moved to close ten of the above cases due to insufficient evidence to support allegations of any violation of the Nurse Practice Act or Board of Nursing regulations. The motion was seconded and carried unanimously.

Ms. Lief moved to close seventeen of the above cases undetermined at this time. The motion was seconded and carried unanimously.

Ms. Lief moved to offer one of the above individuals a pre-hearing consent order, in lieu of further administrative proceedings. The motion was seconded and carried unanimously.

Ms. Lief moved to offer confidential consent agreements to eight of the above individuals, in lieu of initiating disciplinary proceedings.

ADJOURNMENT: The meeting was adjourned at 5:15 P.M.

Susan Bell Rosen, R.N., F.N.P., J.D.
Deputy Executive Director, Discipline