VIRGINIA BOARD OF NURSING
MINUTES
November 18, 2014

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on November 18, 2014 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Jane R. Ingalls, RN, PhD; President

BOARD MEMBERS PRESENT:
Jane Ingalls, RN, RN, PhD; President
Joyce A. Hahn, PhD, APRN, NEA-BC; Vice-President
Trula Minton, MS, RN; Secretary
Guia Caliwagan, RN, MAN
Joana Garcia, Citizen Member
Louise Hershkowitz, CRNA, MSHA
Jeanne Holmes, Citizen Member
Evelyn Lindsay, LPN
Kelly McDonough, DNP, RN
Jennifer Phelps, LPN, QMHPA
William Traynham, LPN, CSAC

BOARD MEMBER ABSENT:
Marie Gerardo, MS, RN, ANP-BC

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Gloria D. Mitchell, RN, BSN, MBA; Deputy Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Paula B. Saxby, RN, PhD; Deputy Executive Director
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

STAFF ABSENT: Linda Kleiner, RN; Discipline Case Manager
Jodi P. Power, RN, JD; Deputy Executive Director

OTHERS PRESENT: James Rutkowski; Assistant Attorney General, Board Counsel
Jaime Hoyle, Chief Deputy Director, Department of Health Professions
Elaine Yeatts, Policy Analyst, Department of Health Professions
James Pickral, Virginia Nurses Association Lobbyist
Lucy Smith, Fortis College, Richmond

ESTABLISHMENT OF A QUORUM:
With 11 members present, a quorum was established.

ANNOUNCEMENTS:

- Retirement of Charlotte Creed, Office Manager – January 1, 2015
- Resignation of Dr. Janet Younger, P-14 Agency Subordinate

- Resignation of Jessica Ressler, P-14 On-Site Visitor

UPCOMING MEETINGS:

- The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for December 10, 2014. Additional Board members are needed to conduct informal conference and formal hearing. Dr. Ingalls, Ms. Minton, Ms. Phelps and Mr. Traynham volunteered to participate in the Joint Board proceedings.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board did not remove any items from the consent agenda. Ms. Minton moved to accept the consent agenda which included the following. The motion was seconded and carried unanimously.

Minutes:

September 15, 2014	Panel – Dr. Hahn
September 16, 2014	Quorum – Dr. Ingalls
September 17, 2014	Quorum – Dr. Ingalls
September 17, 2014	Panel – Dr. Ingalls
September 17, 2014	Panel – Dr. Hahn
September 18, 2014	Panel – Dr. Ingalls
October 20, 2014	Panel – Ms. Lindsay
October 20, 2014	Telephone Conference Call – Dr. Ingalls

REPORTS:

Board of Nursing Monthly Tracking Log – Licensure & Disciplinary Statistics:

Ms. Douglas reviewed the current statistics. She stated the license count has increased by 45,000 licensees in the last 10 years. Staff vacancies over a period of several months may cause case review to be negatively affected in the upcoming months. Ms. Douglas and Dr. Ingalls expressed their appreciation of Board staff covering duties during these absences.

Executive Director Report:

Ms. Douglas added to the written report submitted information regarding:

- Plan to have DHP investigators being able to testify remotely using Via 3. Board of Nursing staff are involved with staff from APD, Enforcement and IT in an effort to start in January 2015.
- Virginia Action Coalition – Access to Care Workgroup announced Patricia Selig as the new co-chair with Kathy Baker due to the resignation of Cynthia Fagan.
- Staunton News Leader request for discipline documents on several licensees continues to require many hours of research and fact checking. Ms. Douglas stated it is anticipated for the story to be published in 4 parts beginning December 9, 2014. The focus is on cases dealing with substance abuse and Health Practitioners Monitoring Program. Regular updates are being provided to the Secretary's Office and the Governor's Office.

Nurse Licensure Compact (NLC) Report:
Ms. Douglas attended the NLC Executive Committee meeting in October 2014. At the meeting, proposed amendments to the NLC were discussed. APRN compact discussion is delayed due to proposed changes to the RN/LPN compact. Compliance policies were reviewed; a plan to assist states that are not in compliance is being developed to assist with compliance. Feedback from Boards regarding amendments to the NLC has been given to the NCSBN review team. The next step is for NLC counsel to compile common questions and to arrange for a conference call with Board counsels.

Federation of State Massage Therapy Boards (FSMTB) Annual Meeting:
Ms. Krohn reviewed the information submitted by Latasha Austin, Administrative Assistant who attended the annual meeting in October 2014 in Tucson Arizona.

- Representatives from several massage therapy organizations were present at the annual meeting.
- A joint announcement from FSMTB and the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) indicating effective November 1, 2014 the NCBTMB will no longer offer the NCETM and NCETMB exams. Applicants that plan to take the NCBTMB exams must register prior to October 31, 2014. Applicants will have 90 days from the day they register to schedule and sit for the NCETM or NCETMB exam.
- 5 amendments to the FSMBTB bylaws were voted on by the delegates all passed.

Board of Nursing Massage Therapy Advisory Board meeting and approval of minutes:
Ms. Krohn reviewed the minutes of the meeting held on October 9, 2014. The Advisory Board recommended that the Board of Nursing to accept the Board Certification Exam for Therapeutic Massage (BCETM) being offered by the National Certification Board for Therapeutic Massage and Bodywork) as an exam for initial certification in Virginia. Dr. Hahn moved that the Board accept BCETM as an exam for initial certification in Virginia. The motion was seconded and carried unanimously. Ms. Yeatts stated the recommendation from the Advisory Board to change 18VAC90-50-75(A)(1) is not needed as the current regulations meets the requirement for certification. Mr. Traynham moved that the Board of Nursing accept the minutes of the Massage Therapy Advisory Board meeting of October 9, 2014. The motion was seconded and carried unanimously.

Ad Hoc Committee on Conscious Sedation:
Dr. McDonough reviewed the information in the minutes of the meeting held October 28, 2014. Public comment was received regarding Board of Nursing Guidance Document #90-5 and the proposed changes submitted by Virginia Association of Nurse Anesthetists in 2009. The Committee recommends to retire current Guidance Document #90-5, to develop a new guidance document with the RN role to procedural sedation. A draft proposal will be prepared by Board staff with input from Ms. Williams. The draft will be distributed for public comment prior to the Committee's next meeting. Dr. McDonough

stated those at the Committee meeting expressed high praise for the work of Ms. Williams. Board members and staff also expressed their appreciation regarding Ms. Williams' work. Ms. Hershkowitz moved that the Board accept the minutes of the Ad Hoc Committee on Conscious Sedation meeting of October 28, 2014. The motion was seconded and carried unanimously.

Nursing Education /Accreditation Committee:
Ms. Holmes reviewed the minutes of the meeting held September 16, 2014. Ms. Holes stated this is an ongoing study and the Committee plans to meet in January 2015 and will review survey information of hospital facilities regarding employment practices of registered nurses. Ms. Minton moved that the Board accept the minutes of the Nursing Education/Accreditation Committee of September 16, 2014. The motion was seconded and carried unanimously.

Committee of the Joint Boards of Nursing and Medicine:
Ms. Hershkowitz reviewed the minutes of the meeting held October 8, 2014 and noted an error on page 2, New Business, Consensus Model Implementation Update on National Progress should read The Virginia Action Coalition Access to Care Workgroup convened a meeting. Ms. Holmes moved that the Board accept the minutes of the Committee of the Joint Boards of Nursing and Medicine of October 8, 2014 as corrected. The motion was seconded and carried unanimously. Ms. Hershkowitz added that new members of the Advisory Committee are needed due to resignations.

Health Practitioners Monitoring Program (Health Practitioners Monitoring Program) Report:
Ms. Douglas reported on the information provided by Peggy Wood, which indicates the number of licensees of the Board of Nursing remains steady. Ms. Douglas added an annual report from HPMP is forthcoming and will be posted the Department of Health Professions website when it is made available.

DIALOGUE WITH AGENCY DIRECTOR:
Ms. Hoyle provided the Board with information on the following topics:

- The decision to outsource DHP human resource services to the DHRM shared services center. This change resulted in DHP human resource staff reduction, with one person in-house but is a DHRM employee.
- Governor's Task Force Executive Order 29 regarding heroin and prescription drug abuse met in November. Ms. Hoyle stated those addicted to prescription drugs will often lead to heroin use because it is less expensive and more easily accessible which is resulting in an increase in deaths related to overdose of heroin in Virginia. Workgroups will meet regarding education, data, storage, treatment, enforcement and disposal.
- Criminal background check legislation may be included in the 2015 General Assembly.

RECESS: The Board recessed at 10:22 A.M.

RECONVENTION: The Board reconvened at 10:37 A.M.

OPEN FORUM: There was no one present to address the Board.

OTHER MATTERS:

Board of Nursing Appeals Update:
Mr. Rutkowski provided information on the pending Board of Nursing appeals.

Board of Health Professions:
Dr. Ingalls congratulated Ms. Minton on her appointment to the Board of Health Professions. Ms. Minton provided information on the meeting held November 6, 2014.

- A chair and vice chair were elected. DHP Finance staff provided an overview of the budget preparation process.
- No action was taken in the matter of access to dental care in rural areas, the matter will be continued to allow time to study allowing dental hygienists to work without direct supervision.

Election of Nomination Committee:
Dr. Ingalls stated three members are needed to serve on the Nominating Committee to prepare a slate of officers for 2015. Board members were advised being on the Committee does not preclude members from running for office. The slate of officers is to be available at least 30 days in advance of the annual meeting scheduled for January 27, 2015.

Dr. Ingalls, Ms. Caliwagan and Dr. McDonough volunteered to serve on the Committee.

Board Inquires and Activities Related to Ebola/Public Health Issue:
Ms. Douglas provided information to the Board regarding the calls and emails being received from nurses and employers with questions regarding refusal to care for Ebola patients. The information being provided to these requests is that this is a employer/employee issue and that the Board does not have a position on this issue and to review Board of Nursing Guidance Document 90-41 regarding patient abandonment versus employment abandonment.

Ms. Douglas also provided information from a large hospital system that has set up isolation units for patients being treated for Ebola which asked if a registered nurse would be allowed in the taking of chest x-rays under the direction of a physician and radiological technician. Ms. Douglas stated after consultation with the Board of Medicine she learned there is a provision in the Medical Practice Act for employees of hospitals that could be applied in this situation.

Future Health Practitioners Monitoring Program (HPMP) Presentation:
Ms. Douglas stated that Dr. Sherman Master, HPMP Medical Director, has offered to come to a Board meeting and provide information based on Board members needs. Ms. Douglas asked Board members to provide her with questions regarding the HPMP that Dr. Master can address at a future meeting.

EDUCATION:

Education Special Conference Committee Minutes:
Dr. Ingalls reviewed the minutes of November 13, 2014. Ms. Holmes moved to accept the minutes. The motion was seconded and carried unanimously.
http://www.dhp.virginia.gov/nursing/minutes/2014/EdIFC_final_11132014.doc

Education Issues:
Dr. Saxby provided information regarding an opportunity for a graduate student from VCU to work with the Board. Ms. Douglas and Dr. Saxby will meet with the student to discuss options.

Organization of Associate Degree Nursing 2014 Convention:
Ms. Ridout attended the meeting in November and reported on the information obtained from the meeting to include:

- Education programs need to move from traditional clinical settings to other experiences in the community the emphasize prevention and wellness
- Educators need to emphasize and prepare students to obtain BSN
- NCLEX strategies for students to increase success on the first exam
- A need to increase staff mentoring and orientation programs for new educators

Nursing Education Annual Report Survey:
Dr. Saxby reviewed the information in the survey that was send to all approved pre-licensure RN and PN programs in Virginia during the 2013 academic year. Dr. Saxby asked Board members to provide her with any changes by the end of the week.

LEGISTION/REGULATION:

Status of Regulatory Action:
Ms. Yeatts reviewed the pending regulatory action for the Board of Nursing as of November 5, 2014. She specifically addressed the nurse practitioner regulations. The emergency regulations adopted pursuant to HB346 of the 2012 General Assembly expired on November 6, 2014. Technically, the pre-2012 regulations are currently in effect. However, to the extent those regulations are in conflict with the current statute regarding the practice of nurse practitioners; the Code of Virginia prevails. Nurse practitioners must practice in collaboration and consultation with a patient care team physician with whom he or she has a practice agreement for practice.

Petition for Rulemaking – Amendments to 18VAC90-30-90:
Ms. Yeatts reviewed the petition for rulemaking received regarding the addition of American Association of Critical Care Nurses (AACN) Certification Corporation to the list of Board accepted certification organizations. Ms. Yeatts reported the Committee of the Joint Boards of Nursing and Medicine recommended adoption of an amendment to 18VAC90-30-90 by a Fast-track action and that the Board of Medicine adopted the amendment as recommended on October 16, 2014.

Dr. Hahn moved that the Board of Nursing accept the petition for rulemaking by adoption of an amendment by a Fast-track action as recommended by the

Committee of the Joint Boards of Nursing and Medicine and as adopted by the Board of Medicine. The motion was seconded and carried unanimously.

Adoption of Final Regulations – Replacement of Emergency Regulations on Provisional Licensure:
Ms. Yeatts reviewed the information from the proposed regulations which are identical to the emergency regulations effective August 1, 2013. Dr. Hahn moved that the Board of Nursing adopt the final regulations to replace the emergency regulations with permanent regulations. The motion was seconded and carried unanimously.

Adoption of Guidance Document 90-62 on Approval of Medication Administration Training Programs:
Ms. Yeatts stated the guidance document does not include any new information; however it is a compilation of information regarding medication administration training programs into guidance document format for easier access to information. Dr. Hahn moved that the Board of Nursing adopt Guidance Document 90-62. The motion was seconded and carried unanimously. Ms. Yeatts acknowledged Ms. Krohn's initial work on compiling this information.

RECESS: The Board recessed at 11:45 A.M.

RECONVENTION: The Board reconvened at 1:00 P.M.

CONSIDERATION OF CONSENT ORDERS

CLOSED MEETING: Ms. Minton moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:03 P.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Minton moved that Ms. Douglas, Ms. Mitchell, Ms. Krohn, Dr. Saxby, Ms. Ridout, Ms. Tiller, Ms. Davis and Mr. Rutkowski 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 1:04 P.M.

Ms. Minton 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.

Kathy B. Tignor, LPN 0002-053023
Ms. Minton moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the practical nursing license of Kathy Tignor. The motion was seconded and carried unanimously.

Tracy Saunders, LPN 0002-072224
Ms. Minton moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the practical nursing license of Tracy Saunders. The motion was seconded and carried unanimously.

Jennifer Elder, CMT 0019-007487
Ms. Minton moved to accept the consent order to indefinitely suspend the right of Jennifer Elder to renew her massage therapy certificate. The motion was seconded and carried unanimously.

Debra O. Capobianco, RN 0001-134009
Ms. Minton moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the registered nursing license of Debra Capobianco. The motion was seconded and carried unanimously.

Gary A. Sites, CMT 0019-010231
Ms. Minton moved to accept the consent order to revoke the massage therapy certification of Gary Sites. The motion was seconded and carried unanimously.

Jesse O'Kane, CMT 0019-010645
Ms. Minton moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the massage therapy certification of Jesse O'Kane. The motion was seconded and carried unanimously.

Mr. Rutkowski left the meeting to resume his normal schedule.

POLICY FORUM: **International Council of Nursing (ICN) 2014 Global Nursing Leadership Institute (GNLI):**
Ms. Douglas provided information from the ICN GNLI she attended in September held in Geneva Switzerland. National Council of State Boards of Nursing provided a scholarship to cover the expenses to attend the Institute.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 2:23 P.M.

Trula Minton, MS, RN
Secretary

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