VIRGINIA BOARD OF NURSING
MINUTES
July 19, 2016

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on July 19, 2016 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:
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President
Kelly McDonough, DNP, RN; Vice President
Jennifer Phelps, LPN, QMHPA; Secretary
Guia Caliwagan, RN, MAN
Marie Gerardo, MS, RN, ANP-BC
Regina Gilliam, LPN
Louise Hershkowitz, CRNA, MSHA
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Rebecca Poston, PhD, RN, CPNP-PC
William Traynham, LPN, CSAC

BOARD MEMBERS ABSENT:
Joana Garcia, Citizen Member
Jeanne Holmes, Citizen Member

STAFF PRESENT:
Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Gloria D. Mitchell-Lively, RN, BSN, MBA; Deputy Executive Director
Jodi P. Power, RN, JD; Deputy Executive Director
Stephanie Willinger, Deputy Executive Director
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Ann Tiller, Compliance Manager
Gloria Bradley, Executive Assistant
Darlene Graham, Senior Discipline Specialist
Linda Kleiner, RN, Discipline Case Manager
Paula B. Saxby, RN, PhD; Deputy Executive Director

OTHERS PRESENT:
Dr. David Brown, Director, Department of Health Professions
Charis Mitchell, Assistant Attorney General, Board Counsel
Lisa Hahn, Chief Deputy Director, Department of Health Professions
Elaine Yeatts, Policy Analyst; Department of Health Professions

IN THE AUDIENCE:
Janet Wall, CEO Virginia Nurses Association
Michele Satterlund, McGuire Woods representing the Virginia Association of Nurse Anesthetists (VANA)
Hannah Newman

Richard Grossman representing Virginia Council of Nurse Practitioners (VCNP)
Ashley Rivera, Intern DHP

ESTABLISHMENT OF A QUORUM:

With 11 members present, a quorum was established.

ANNOUNCEMENTS:

Ms. Douglas welcomed Gloria Bradley, Temporary Executive Assistant. She recognized BON employees with years of service (Darlene Graham 25 years and Beth Yates with 20 years).

UPCOMING MEETINGS

Ms. Douglas noted the CAC Meeting on September 17-18, 2016. It was noted this is prior to Board meeting week. She asked if anyone was interested, to let her know.

The Committee of the Joint Board of Nursing and Medicine meeting is scheduled for October 12, 2016.

The NCSBN Annual Meeting is August 17-19, 2016. Kelly McDonough and Gloria Mitchell-Lively to attend pending approval. Jay Douglas will attend Nurse Licensure Compact Administrators Meeting and first day of NCSBN Annual Meeting.

Certified Nurse Aide Curriculum Stakeholder Meeting occurred July 14, 2016 at the request of Delegate Orrock. Dr. Hahn stated there was positive energy during the meeting. A future meeting date is to be determined and a work group on curriculum to be established.

ORDERING OF AGENDA: The agenda was reviewed and ordered. Ms. Douglas stated that additional cases would be added on Thursday. Also, Transcripts – licensure by examination applicant with added under Other Matters. Ms. Krohn recommended removal of #9 (Sandra Gail Wilson, CNA) under Consideration of Agency Subordinate Recommendations on Wednesday. Thursday, Julie Nowak, RN should be removed as she has signed consent order.

CONSENT AGENDA: The Board did not remove any items from the consent agenda. Mr. Monson made corrections to the May 17th and May 18th minutes. Ms. Hershkowitz moved to accept the consent agenda with modification to May 17th and May 18th minutes. The motion was seconded and carried unanimously.

Minutes:

May 16, 2016	Panel – Dr. Hahn
May 17, 2016	Quorum – Dr. Hahn
May 18, 2016	Quorum – Dr. Hahn
May 18, 2016	Panel – Dr. Hahn
May 19, 2016	Panel – Dr. McDonough
June 7, 2016	Telephone Conference Call – Dr. McDonough

Reports:
Agency Subordinate Tracking Log

REPORTS:

Finance Report:
The finance report was mailed out to Board members.

Monthly Tracking Log-Licensure and Disciplinary Statistics:
This report was also mailed out to Board members.

Executive Director Report:
Ms. Douglas provided information regarding:

- Zika Task Force – 868 persons were tested in Virginia with 33 confirmed cases. Most due to out of country travel.
  - VDH is busy pushing out information to practitioners.
  - Office of Emergency Preparedness has an emergency plan. Mosquito Surveillance Training has been conducted. "Boots on the ground" education is needed.
  - Tip, Toss & Turnover - In movie theaters as a PSA starting July 1st, there will be a 30 second video on how to not leave standing water, etc. to attract mosquitoes.
  - Safety of blood supply is an issue – ensure testing adequately
- BON Staffing Update – P14 Discipline and P14 Probable Review listed. Opening in CBC unit due to Timetria Turner leaving 7/24/16 and vacant Executive Assistant position.

Enhanced Nurse Licensure Compact (NLC):

- New nurse licensure compact – 10 states have adopted new enhanced NLC so plan to accomplish has occurred as three states not in current NLC (Florida, Oklahoma and Wyoming) have adopted new version
- More than 20 states plan to go forward with legislation in 2017. If successful, there will be enough to become effective.
- Will need to change some of eligibility processes for MSL and add steps to the renewal process. NCSBN will assist with toolkit to do so.
- Sixteen states have adopted legislation for medical compact.

Operational Challenges:

- BON staff working hard on solutions to high volume application processing issues experienced over past two months. Many calls/e-mails received from applicants during this time:
- May – June statistics:
  - Received 575 license by exam (151 repeat)
  - Received 1756 RN by exam (273 repeat)
  - Received 130 by LPN
  - Received 1016 RN
- Receiving multiple contacts from some callers/applicants to various staff. Call center volume revealed Jan-June, 1180 calls per day with 3-4.5 min average length of time. (Typical expectation is 75-100 calls per day in a call center). The goal is to reduce repeat calls. Most calls

are related to application status. Messaging changed on the website and application instructions to make clear expectations to public that it would take 30-45 days to process applications. On-line checklist has been of limited help. A work group has been established to make more checklist items visible to public/applicant. Legitimate concerns have been received regarding delays in licensure resulting in calls from legislators, employers, etc. Biggest frustration, however, is not being able to get through to BON staff. Solutions have included:

- Licensure by exam:
  - ATT letter now going out electronically
  - We have stopped accepting electronic transcripts from schools
  - Temporary staff being hired for call center
  - Prioritizing first time test takers over repeat test takers
- For Licensures by Endorsement
  - Changed checklist items and messaging
  - Automatic messaging re: expectation
  - Application support documentation email address established
  - Revised instructions online
  - Developed new checklists for Certified Massage Therapists
  - Identifying military connection
  - Developed custom reports for CBC

- Staff will continue to evaluate letters and how we can improve self-service for customers
- Board of Nursing is adding six temporary employees with skills in call center environments to assist with the main number. Three start July 25, 2016 and the other three later. Latedra Goodwyn will act as team leader. The existing DHP call center will assist with orientation and training.
- The budget is still under review in terms of additional FTEs for BON.
- We how have "real-time" licensure on website license look-up. This is helpful to employers and licensees.
  - Ms. Phelps suggested utilizing Facebook and social media to share w/applicants (new graduates) expectations.
  - If Board members are contacted, Ms. Douglas requested forwarding e-mails/calls to her or the department. If generic request/inquiry, send to website.

PUBLIC COMMENT: Janet Wall, CEO Virginia Nursing Association - discussed campaign for action w/AARP and Fall Conference to be held at Hilton at Short Pump on September 23rd and 24th – Creating a Culture of Community Well-being. Also RWJF Campaign for Health – holistic approach at community level – first meeting May 31st.

Michelle Satterlund on behalf of VANA stated as part of 2016 legislation CRNAs are exempted from practice agreement. Request to add to exempt regulations to be considered later.

DIALOGUE WITH AGENCY DIRECTOR:

Dr. Brown, Agency Director provided input on the following topics:

- He appreciates the hard work that BON staff has done to improve process.
- Agency working to improve DHP website using WordPress and new process/message improvements and need to figure out short-run needs for BON to make website more useful/helpful.
- Medical Licensure Compact – Virginia Board of Medicine elected to not pursue this year because a number of things are still unclear (i.e., costs) and clarity as nursing model.
- DHP Agency Training in May 2016. This will be done again in future – presentations were rated as very high and Dr. Hazel was welcomed.
- This fall DHP plans one training day for all Board members. The plan is to include short videos on some items (late September/early October 2016).
- Health Practitioners Monitoring Program External Audit – conducted Spring 2015. Agreed with some recommendations and not others. (It engendered taking a closer look at the Health Practitioners Monitoring Program and contractor communications).
- Mission statement in code was recommended.
- Expand Advisory Committee to include citizen member
- VCU Staff communicate directly to Board staff
- More data/reporting to Boards
- Change committee to advisory only (but will incorporate some policy work)
- Evaluate current regulations
- Looking at website improvement
- Establish data and evaluation processes. Hopeful we will have audit/response in writing by the September Board meeting.
- While cast was not evaluated in the audit and comparison to other stated not done, renewed interest in lookup at resources fund for participants.

Reports from NCSBN Discipline Case Management Conference:

Dr. Hahn began by stating what a wonderful conference this was to attend. Brenda Krohn was grateful various DHP members could attend and collaborate. She stated Ann Tiller was the most popular attendee. Ms. Krohn stated that the Texas CBC and Convictions presentation had good info on audits.

Jodi Power stated that it was a helpful and on point conference. She was grateful for attending and being able to collaborate with co-workers. The use of the prescription monitoring program was a very informative presentation. With opioid abuse being so predominant, it was interesting to see signs of abuse (i.e., early refills and how the individual is paying for the prescription (cash instead of insurance is a red flag)). Drug screens are being done with hair and nails and can show six months.

Ann Tiller stated her highlight for this conference was being able to communicate with others in different states on discipline cases.

Linda Kleiner was interested in the opioid epidemic. Collen Labelle (presenter) stated that this drug's overdose takes more lives than traffic accidents (129 people die each day due to overdoses).

Committee of the Joint Boards of Nursing and Medicine:
Ms. Hershkowitz reviewed the minutes of the meeting held in June 8, 2016. She highlighted PMP update by Ralph Orr including 2016 legislation and Secretary Hazel's letter on CDC guidelines. The Committee of the Joint Boards of Nursing and Medicine is dealing with a changing world and issues. Discussion continued on possibility of whether separate Rx authority license is needed. A workgroup is being considered to do additional research on this topic. Replacement of advisory members occurred, however need to have CRNA be named. Ms. Hershkowitz moved to accept the minutes. The motion was seconded and carried unanimously.

LEGISLATION/REGULATION:

Status of Regulatory Action:
Ms. Yeatts reviewed the chart of regulatory actions.

Petition for Rulemaking (Greg Huber) :
Ms. Yeatts reviewed the information recommended by Greg Huber to consider amending 18 VAC 90-20-225(B)(1) and 230(A) since it appears to allow reactivate (inactive or lapsed) on requirements . Mr. Monson moved to initiate rulemaking by adopting amendment by publishing a NOIRA to require cc in 18 VAC 90-20-225 B` and 230A. The motion was seconded and carried 10-1. (Mr. Traynham voted no)

Adoption of Final Regulations for CMT:
Ms. Yeatts reviewed the information regarding changing terminology to conform regulations to law as required by 2016 legislation. A change for certification licensure for certified massage therapists. CBC adds requirement by 1/1/17. Ms. Hershkowitz moved to adopt final regulations amendment to 18 VAC 90-50 in CMT Regs as exempt action to conform with law. The motion was seconded and carried unanimously.

Jay Douglas stated the CBC will implement for certified massage therapists on January 1, 2017 and approved to go forward w/Field print. (811 apps/year in 2015).

Exempt Regulatory Action – Nurse Aide Program Requirements:
Required by HB 386 added observational and reporting techniques required by 2016 legislation. Ms. Hershkowitz moved to adopt final regulations to amend 18 VAC 90-26-40(A)(11) to CNA Regs as exempt actions to conform with law. The motion was seconded and carried unanimously.

Exempt Action Nurse Practitioner Regulations:
Pursuant to 2016 legislation (BD463/HB580)
There are three practice models for APRN's:

- CRNA – under supervision, no practice agreement required
- CNM – in consultation with medical doctor with practice agreement (no patient care team)
- LNP – in consultation and collaboration with patient care team physician

Amendments to 90-30 defines and establishes in section 120 NP's, in section 121 CRNAs and in section 123 CNMs.

Ms. Hershkowitz moved to adopt final regulations to amend 18 VAC 90-30 and 90-40 in NP & Rx Authority regulations, as exempt actions to conform with law. The motion was seconded and carried unanimously.

A communication is planned for distribution to all NPs regarding changes to the Virginia code.

Amendments to Guidance Document #90-56 Practice Agreements:

This amendment clarifies given changes in law/regulations. Michelle Sutherland suggestion to add "CRNAs are exempt from practice agreement." Mr. Monson moved to amend proposed guidance document to include suggestion. Ms. Minton moved to adopt Guidance Document 90.56 as amended. The motion was seconded and carried unanimously.

Possible Legislation for 2017

Ms. Yeatts reminded BON that any legislation be submitted to the Governor's office by August 17, 2016. Ms. Douglas reviewed two items previously raised as possibilities:

- Summary suspension/restriction of Nursing Education Programs - the Board determined not to recommend moving forward with legislation.
- Allow panel of Board to consider summary suspensions - the Board determined not to recommend moving forward with legislation.
- Out of state clinical experiences under Board authority
    - Discussion ensued and it was determined the Board needs time to gather more information on the subject before going forward with any legislation. The Board determined not to recommend moving forward with legislation for 2017.

RECESS: The Board recessed at 12:22 P.M.

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

OTHER MATTERS:

IFC vacancy for October IFC date to replace J. Garcia. Ms. Krohn requested Board members to let her know if anyone was available. Mr. Traynham volunteered to serve.

Board of Nursing Appeals Update:

Ms. Mitchell, Board Counsel, had no updates.

Summary of Recs to 2016 NCSBN Delegate Assembly
Slate of candidates has changed. Updated information will be provided by National Council of State Boards of Nursing.

Disclosure of Health Records and Health Services in Confidential Exhibits in Notices and Order:
Ms. Powers reviewed law and new Department of Health Professions' policy effective July 1, 2016, as well as the practical implications.

New Standard Probation Terms Form:
Ms. Power reviewed new probation form distributed for immediate use, to implement standard disclosure documents started in April 2016.

Transcripts for Applicants by Exam:
Ms. Douglas shared that recently learned Texas BON no longer requires transcripts as BON approves the curriculum. Discussed whether this should be a consideration for Virginia. This would require a regulatory change according to Ms. Yeatts and perhaps by fast-track. Instead the Board could consider accepting a list of graduates from nursing education programs. Mr. Traynham moved to initiate NOIRA for RN/LPN eligibility requirement for license by examination fast-track action to amend regulations to no longer require transcripts. The motion was seconded and carried unanimously.

EDUCATION:

Education Special Conference Committee Minutes:
Dr. Hahn reviewed highlights from July 13, 2016 Education Special Conference Committee meeting and actions. Ms. Ridout shares seven schools need NCLEX survey visits for scores (less than 80 percent for two years). Additionally, 23 applications to establish NEPs are pending. Several topics were identified for Board discussion including:

- Out-of-State pre-licensure NEP using clinicals in Virginia and whether Virginia should approve or have authority/oversight (determined to need more study).
- Use of high stakes, exit exams → determined to be school policy rather than something to be addressed by BON.
- "Things to Consider When Choosing a NEP" is being developed as a communication tool by staff (in conjunction with Department of Health Professions' staff) and will be presented to Education Special Committee in September for approval.
- Revisions proposed to General Document 90-21 on Clinical Learning Experiences, which will also be reviewed at September 2016 Education Special Conference Committee.

Mr. Monston moved to accept the Education Special Conference Committee minutes and recommendations. This motion was seconded and unanimously carried.

Dr. Saxby received communication from Pearson-Vue that American Red Cross is not a viable option as new subcontractor to replace NACES. Further discussion and consideration required regarding contract renewal.

NNAAP 2015 Technical Report:
Dr. Saxby reviewed Pearson Vue's 2015 technical report for all states in NNAAP, after explaining the written and skills exam portions of the NNAAP.
Comparatively – Virginia – 90% written, 67% skills
National – 91% written, 74% skills
She noted Maryland has higher pass rates, noting Maryland does not approve proprietary schools.
Once new subcontractor in place, will do best practice training across state w/Tamika Younger.

NCLEX Member Board Review
Dr. Saxby sent an e-mail to Board members to extend opportunity to go to NCLEX test site and review process. The deadline is Friday, July 22, 2016. It's offered at multiple locations. Dr. Saxby requested Board members let her know their top choice locations and dates.

RECESS: The Board recessed at 2:30 P.M.

RECONVENTION: The Board reconvened at 2:35 P.M.

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 2:35 P.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Phelps moved that Ms. Douglas, Ms. Krohn, Ms. Power, Ms. Bradley, Ms. Graham 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 2:45 P.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.

Samantha Hill, CNA 1401-108431
Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of Samantha Hill's certificate for Certified Nurse Aide for not less than one year. The motion was seconded and carried unanimously.

Brandon Covington, CNA 1401-151327
Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the right to renew Brandon Covington's certificate for Certified Nurse Aide. The motion was seconded and carried unanimously.

Morgan Clary, CNA 1401-159135
Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the right to renew Morgan Clary's certification for Certified Nurse Aide. The motion was seconded and carried unanimously.

Julie Nowak, RN 0001-149171
Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the right to renew Julie Nowak's license to practice professional nursing. The motion was seconded and carried unanimously.

Cristina Taylor, RN 0001-243663
Ms. Minton moved to accept the consent order to reinstate the license of Cristina Taylor to practice nursing. The motion was seconded and carried unanimously.

Neeka Barrow, RN 0001-223470
Dr. McDonough moved to accept the consent order to suspend the license of Ms. Barrow to practice professional nursing and stay contingent upon entry into the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Amanda Marshall, RN 0001-174830
Dr. McDonough moved to accept the consent order to reinstate the license for Ms. Marshall to practice professional nursing. The motion was seconded and carried unanimously.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 3:30 P.M.

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

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