

**VIRGINIA BOARD OF NURSING
MINUTES
MAY 14, 2003**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on May 14, 2003 in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Janet B. Younger, R.N., P.N.P., Ph.D., President

**BOARD MEMBERS
PRESENT:**

Linda Ault, R.N., M.S.N., Vice President
Louise D. Hartz, Citizen Member, Secretary
Marion Alderman, Citizen Member
Shelley F. Conroy, R.N., Ed.D.
Lynne E. Cooper, Citizen Member
Carol E. King, L.P.N., M.S.
Louisa Lief, R.N., M.S.
Denise Oppenhagen, R.N., B.S.N.
Julia C. Semple, L.P.N. (joined later)
Dawn M. Sykes, R.N., B.S.N.

**BOARD MEMBERS
ABSENT:**

JoAnn Tillett, R.N.
Diane Tramel, 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
Susan Bell Rosen, R.N., L.N.P., J.D., Deputy Executive Director, Discipline
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Amy Davis, Administrative Assistant

OTHERS PRESENT:

Howard Casway, Assistant Attorney General
Robert Nebiker, Director, Department of Health Professions
Gail Jaspén, Deputy Director, Department of Health Professions
Elaine Yeatts, Regulatory Analyst, Department of Health Professions
Greg Huber, Virginia Nurses Association
James Schliessmann, Assistant Attorney General
Gayle Miller, Senior Adjudication Analyst

**ESTABLISHMENT OF
A QUORUM:**

With 10 members of the Board present, a quorum was established.

CLOSED MEETING:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 9:05 A.M., for the purpose of deliberation to reach a decision regarding a possible summary suspension. Additionally, Ms. Hartz moved that Ms. Douglas, Ms. Power, Ms. Rosen, Dr. Saxby Mr. Casway, Ms. Davis, Mr. Schliessmann and Ms. Miller 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 9:35 A.M.

Ms. Hartz 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. Alderman moved to summarily suspend the license of a licensee.

The motion was seconded. There was one yes vote, eight opposed votes and two abstentions.

The motion regarding possible summary suspension failed.

Ms. Semple joined the meeting, for a total of 11 members of the Board present.

ANNOUNCEMENTS:

NCSBN annual meeting is scheduled for August 5 – 9, 2003 to be held in Alexandria, Virginia. Dr. Younger asked for the names of Board Members that would like to be delegates and the names of Board Members that would like to attend be given to her today.

The next meeting of the Nursing Practice Advisory Committee is June 4, 2003 from 10:00 A.M. to 12:00 NOON in Richmond, Virginia.

The Centennial celebration is this evening at the Omni Hotel in Richmond, Virginia.

The next meeting of the Committee of the Joint Boards of Nursing and Medicine is scheduled for August 27, 2003.

The Education Consultant position has been filled. Jessica Ressler, R.N. will join the staff June 16, 2003.

DIALOGUE WITH
MR. NEBIKER:

Mr. Nebiker reported on the following activities:

-a proposed software program "My License" that would allow for on-line renewals will be tested this summer. "My License" will have the ability to collect workforce and other data at the time of renewal.

-HB 2182 directs the Department of Health Professions to collect emergency contact information from all licensees to be used only in the case of a national emergency.

-Board of Health Professions is conducting a sanction reference study. The results will assist the Board in determining appropriateness and consistency of sanctions.

-Department of Health Professions strategic plan is being developed for 2004 – 2006 biennium.

-The Department of Health Professions has entered into a memo of understanding with the Attorney General to provide an additional 4,000 hours to the Department next year due to the anticipated increase in disciplinary case load as a result of HB 1441.

-The Department of Health Professions is working with the Attorney General's office regarding legislation that may be necessary to delegate decision making to Board staff. The code will also be reviewed for possible amendments as related to the Nurse Licensure Compact which is to be implemented January 2005.

-The Department is pleased with the performance of new HPIP vendor. The Department has noted an increase number of dismissals from the program which could increase the number of disciplinary cases for the Boards.

-The Department of Health Professions is exempt from HIPAA requirements as we are a health oversight agency.

-A "Score card" for the Department of Health Professions is being developed to assist in measurement of agency performance.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed one item from the proposed consent agenda and adopted a motion by Ms. Lief to accept the consent agenda which includes:

Minutes:

March 17, 2003 – Dr. Younger

March 18, 2003 – Meeting

March 20, 2003 – Ms. Ault

Finance Report

Open Cases Report

Case Summary Report

Case Standard Report

License Count Report

Applicant Count Report

Examinations: NNAAP

NCLEX

Probation Completed

Successful Completion of Health Practitioners Intervention Program

The motion was seconded and carried unanimously.

Ms. Hartz moved to accept the minutes of March 19, 2003 as corrected.

The motion was seconded and carried unanimously.

Dr. Conroy moved to include the change to the minutes of March 19, 2003 made by advice of legal counsel.

The motion was seconded and carried unanimously.

REPORTS:

Board of Health Professions:

Ms. Ault reported on the minutes from the last meeting.

Health Practitioners Intervention Program:

Ms. Douglas reviewed the statistics that were distributed.

Discipline Committee:

Dr. Conroy reviewed minutes from the last meeting and moved that the Board adopt the proposed guidelines for circumstances in which a confidential consent agreement could be offered.

The motion was seconded and carried unanimously.

Ms. Hartz moved that the Disciplinary Committee periodically review the guidelines for necessary revisions.

The motion was seconded and carried unanimously.

Board Counsel:

Mr. Casway discussed the notice of appeal received regarding Lisa Tindle, R.N.

Governors Council of the Future of Nursing in Virginia:

Dr. Younger reported on the meeting held in April. The Council is very pleased with the development of the Board of Nursing's Nursing practice Council and the outcome of the first meeting.

Budget Preparation – FY 2004 – 2006:

Ms., Douglas reported that the first stage budget preparation has been completed to include the increases in costs related to the implementation of the nurse licensure compact.

NCSBN mid-year meeting:

Dr. Conroy submitted a report on the mid-year meeting held March 2003 and attended by Dr. Conroy, Ms. Tramel and Ms. Douglas.

Mr. Nebiker and Ms. Jaspén left the meeting.

RECESS:

The Board recessed at 10:46 A.M.

RECONVENTION:

The Board reconvened at 11:00 A.M.

OTHER MATTERS:

Request for accommodation for examination:

CLOSED SESSION:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 11:00 A.M. for consultation with and the provision of legal advice by the Assistant Attorney General in the matter of a request for accommodation for examination. Additionally, Ms. Hartz moved that Ms. Douglas, Mr. Nebiker, Ms. Jaspén, Dr. Saxby, Ms. Power, Ms. Rosen, 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 11:28 A.M.

Ms. Hartz 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.

Judith Kirby

Ms. King moved to grant a reader/marker, a separate room, and a large dial manometer to take the NNAAP exam.

The motion was seconded and carried. Dr. Conroy, Ms. Oppenhagen and Ms. Sykes voted no.

Karin M. Brown

Dr. Conroy moved to grant for time and one half over one day to take the NCLEX RN exam.

The motion was seconded and carried unanimously.

Tina L. Soltero

Dr. Conroy moved to allow time and one half over one day to take the NCLEX RN exam.

The motion was seconded and carried unanimously.

Sara Neuenschwander

Dr. Conroy moved to allow time and one half and a separate room to take the NCLEX RN exam.

The motion was seconded and carried unanimously.

OTHER MATTERS
CONTINUED:

Nurse Licensure Compact:

Ms. Douglas discussed the implications of Virginia joining the Nurse Licensure Compact effective January 1, 2005. Education sessions regarding the essential elements of the compact for Board Members and staff will begin in July.

NCSBN Executive Office Orientation:

Ms. Douglas reported that she attended the NCSBN orientation program in April 2003. Information obtained was very helpful.

Scope of Practice Issues – Botox and Dermabrasion:

Information was distributed and will be deferred for discussion until the next meeting.

NCSBN Annual Meeting:

Ms. Douglas reviewed information regarding the Monuments by Moonlight Tour to be hosted by the Virginia Board of Nursing at the August 2003 meeting. She asked for volunteers to assist Ms. Power in planning for the event.

NCSBN Advanced Practice Task Force:

Dr. Younger reported that NCSBN is moving forward with APRN compact National Council's position would not support licensing APRN's in narrow categories but rather broad categories with specialty certification.

July 2003 Chairperson:

Dr. Younger will not be available to chair the Wednesday panel on July 16, 2003 and asked for a volunteer to chair by the end of the day.

REGULATIONS:

Emergency Regulations Pursuant to HB 1441 – Regulations Governing the Practice of Nursing:

Ms. Hartz moved to adopt the emergency regulations for increase in fees related to HB 1441 and the Notice of Intended Regulatory Action to replace the emergency regulations within one year.

The motion was seconded and carried unanimously.

Ms. Oppenhagen moved that the Board approve the publication of a Notice of Intended Regulatory Action to increase fees due to joining the nurse licensure compact.

The motion was seconded and carried unanimously.

RECESS:

The Board recessed at 12:00 NOON.

RECONVENTION:

The Board reconvened at 12:55 P.M.

Changes to Proposed Regulations Governing the Practice of Nursing:

At the request of the Department of Planning and Budget, the Board was asked to amend sections of the proposed regulations to clarify the Board's intent.

Ms. Lief moved to accept as written 18 VAC 90-20-300 A 2 (j) and 18 VAC 90-20-360 2 (g).

The motion was seconded and carried unanimously.

Dr. Conroy moved to strike the word "inappropriate" and insert "non-therapeutic" in 18 VAC 90-20-300 A 2 (l) and 18 VAC 90-20-360 2 (i).

The motion was seconded and carried unanimously.

Ms. Oppenhagen moved to accept as written 18 VAC 90-20-300 A 2 (m) and 18 VAC 90-20-360 2 (j).

The motion was seconded and carried unanimously.

Dr. Conroy moved to adopt changes to 18 VAC 90-20-300 and 18 VAC 90-20-360 to modify the provisions of unprofessional conduct as presented by staff.

The motion was seconded and carried unanimously.

OTHER MATTERS

CONTINUED:

Centennial of the Board of Nursing:

Dr. Conroy recognized today, May 14, 2003 as being the 100th anniversary of the signing of the Bill by Governor James Montague.

Ms. Hartz moved to commend Ms. Corinne Dorsey for her work on planning the centennial celebration and completing the written history of the Board of Nursing.

The motion was seconded and carried unanimously.

EDUCATION
PROGRAMS:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on May 12, 2003.

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

CLOSED SESSION:

Ms. Hartz 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 and discussion of consent orders. Additionally, Ms. Hartz moved that Ms. Douglas, Dr. Saxby, Ms. Power, Ms. Rosen, 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 1:50 P.M.

Ms. Hartz 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.

CASE ADJUDICATION:

Consent Orders:

Brenda Bradford, R.N. 0001-057200

Ms. Hartz moved to accept the Consent Order for indefinite suspension of Ms. Bradford's license to practice as a registered nurse.

The motion was seconded and carried unanimously.

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

Ellyn E. Algarin, R.N. 0001-121823

Ms. King moved to accept the Consent Order for involuntary surrender and the indefinite suspension of Ms. Algarin's 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.

Randy C. Wimmer, C.N.A. 1401-089012

Ms. Ault moved to accept the Consent Order of reprimand and the permanent voluntary agreement not to renew Mr. Wimmer's nurse aide certificate.

The motion was seconded and carried unanimously.

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

Pamela S. Tolbert, L.P.N. 0002-050391

Ms. Lief moved to accept the Consent Order for voluntary surrender and the indefinite suspension of Ms. Tolbert's license to practice as a practical nurse. The motion was seconded and carried unanimously.

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

Vernice B. French, L.P.N., R.N. 0001-037298, 0001-175405

Dr. Conroy moved to not accept the Consent Order regarding Ms. French's license.

The motion was seconded and carried. Ms. Semple voted no.

**OTHER MATTERS
CONTINUED:**

Ms. Hartz moved to commend Dr. Conroy for her years of service to the Board during her 2 four-year terms.

The motion was seconded and carried unanimously.

Ms. Hartz moved to nominate Dr. Conroy for a National Council of State Boards of Nursing award for her contributions to regulation and the NCSBN. Staff was asked to complete and submit the nomination packet.

The motion was seconded and carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 2:00 P.M.

Louise Hartz, Citizen Member
Secretary