

**VIRGINIA BOARD OF NURSING
MINUTES
May 17, 2011**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:04 A.M. on May 17, 2011 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Patricia M. Selig, R.N., F.N.P., Ph.D., President

BOARD MEMBERS PRESENT:

Joyce A. Hahn, Ph.D.; APRN; NEA-BC, Vice President
Evelyn Lindsay, L.P.N., Secretary
Peregrin C. Francisco, R.N., M.S.A.
Allison Gregory, R.N., F.N.P.
Louise Hartz, Citizen Member
Florence Jones-Clarke, R.N., M.S., (joined later)
Patricia C. Lane, R.N., B.S.N., M.B.A
Judith E. Piersall, R.N., B.S.N.
Karen K. Schultz, Ph.D., M.B.A, Citizen Member
William Traynham, L.P.N.

BOARD MEMBERS ABSENT:

Jeanne E. Holmes, Citizen Member
John M. Horn, 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
Brenda Krohn, R.N., M.S., Deputy Executive Director
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director
Tomeka Dowling, R.N., M.S, Nursing Education Consultant
Linda Kleiner, R.N., Discipline Case Manager
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General
Dianne L. Reynolds-Cane, M.D., Director, Department of Health Professions
Arne Owens, Chief Deputy Director, Department of Health Professions
Lauren Goodloe, VNA Representative
Alexa Zaledonis, CEO, NCBTMB
Pamela Hammond, Hampton University
Elnora Daniel, Hampton University
Hilda Williamson, Hampton University
Board of Nursing staff

**ESTABLISHMENT OF
A QUORUM:**

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

ANNOUNCEMENTS:

- Dr. Selig expressed her appreciation to Board staff for all the work that is done especially the behind the scenes work of the support staff. Dr. Selig also recognized the commitment of the current Board members.
- The Committee of the Joint Boards of Nursing and Medicine meeting scheduled for June 15, 2011 has been cancelled due to a lack of business.
- NCSBN investigator training will take place May 24 – 25, 2011 in Chicago. Tonya James, Board of Nursing Compliance Case Manager will attend.
- NCSBN Nurse Licensure Compact meeting will take place June 9-10, 2011 in Chicago. Ms. Power and Ms. Kleiner will attend.
- Nursing Roundtable on Policy, Practice and Research will take place June 16, 2011 in Richmond. Dr. Selig and board staff will attend.
- NCSBN Delegate Assembly/Annual Meeting will take place August 3 -5, 2011 in Indianapolis. Board member and staff attending will depend on the number of individuals funded by NCSBN.
- Virginia Nurses Foundation Gala will take place September 24, 2011. Dr. Cane will serve as the honorary chairperson.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

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

Minutes:

March 21, 2011	Panel – Dr. Hahn
March 22, 2011	Board Meeting – Dr. Selig
March 23, 2011	Quorum – Dr. Selig
March 23, 2011	Panel – Dr. Hahn
March 23, 2011	Panel – Dr. Selig
March 24, 2011	Panel – Dr. Selig
April 4, 2011	Massage Therapy Advisory Board of Nursing
April 13, 2011	Committee of the Joint Boards of Nursing and Medicine
April 18, 2011	Panel – Ms. Lindsay
May 10, 2011	Education Special Conference Committee – Ms. Piersall

Reports:

NCLEX-RN and NCLEX-PN Reports
Health Practitioners Monitoring Program Report of Statistics
Agency Subordinate Tracking Log

DIALOGUE WITH AGENCY DIRECTOR:

Dr. Cane provided an overview of DHP activities during her first year since being appointed as director of DHP which included:

- Five DHP bills passed during the 2011 General Assembly
- Board member orientation program

- Participation in the first national take-back day for unused prescription drugs
- DHP Strategic Plan
- DHP Biennial Plan
- Fee increase approved for Board of Nursing
- Participation in the Health Reform Initiative
- Participation in the Lyme disease taskforce

Ms. Jones-Clarke joined the meeting for a total of 11 Board members present.

Dr. Cane expressed her pleasure in being able to announce that the Virginia Board of Nursing was selected to receive the 2011 NCSBN Regulatory Achievement Award. The award recognizes the member board that has made an identifiable, significant contribution to the purposes of NCSBN in promoting public policy related to the safe and effective practice of nursing in the interest of public welfare. This award is given to one recipient annually, criteria for selection is as follows:

- Active participation in NCSBN activities by board members and/or board staff
- Effective leadership in the development, implementation and maintenance of licensing and regulatory policies
- Active collaborative relationships among the member board, NCSBN, the public and other member boards
- Demonstrated advancement of the NCSBN mission

The award will be officially acknowledged at the NCSBN annual meeting in August 2011 in Indianapolis.

REPORTS:

Executive Director Report:

Ms. Douglas added information that the 2012-2014 budget process has started and that she will be attending the NCSBN Executive Leadership Seminar in June 2011. Doing more with fewer resources is the topic of the seminar.

Finance Report:

Board members did not have any questions, there was no additional discussion related to the Finance Report.

Board of Health Professions:

Ms. Lane provided a verbal report of the Board of Health Professions meeting held May 3, 2011 which included:

- Public comment was received on behalf of the Virginia Chapter of the American College of Nurse Midwives, Virginia Athletic Trainers Association, and the Virginia Counselors Association in support of the Secretary of Health and Human Resources request to study the scope of practice laws of health professions.
- The Department of Health Professions has signed a MOU with the VCU Department of Psychiatry to continue the Health Practitioners Monitoring Program.

- Discussion took place regarding SRP worksheets and cover sheets being provided to the respondent. There are inconsistencies among boards and Mr. Casway recommended that DHP establish a policy or directive regarding this.
- Genetic Counselors have been added as a regulated profession and will be housed under the Board of Medicine.

NCSBN Leadership Succession Committee:

Ms. Lane reviewed the information provided regarding the NCSBN 2011 slate of candidates and that she is running for another term on the Leadership Succession Committee.

LEGISLATION/REGULATION:

Chart of Regulatory Actions:

Ms. Douglas reviewed the chart of regulatory actions that included the increase of Board of Nursing fees has been approved by the Governor and will be effective July 6, 2011.

Legislative Proposal Regarding Massage Therapy Exam:

Ms. Douglas reviewed the proposal regarding §54.1-3029 for the Board to accept the examination of the Federation of State Massage Therapy Boards (FSMTB) for massage therapy applicants in addition to the current exams accepted. Ms. Hartz moved to accept the proposal as drafted. The motion was seconded and carried unanimously.

Petition for Rulemaking – Clinical Nurse Specialists:

Ms. Douglas reviewed the petition for rulemaking submitted by the Virginia Chapter of the National Association of Clinical Nurse Specialists. Key items in the petition include:

- Recognize and license the CNS as an APRN in Virginia
- Ensure that the CNS practice to the full extent of their education, skills and competencies
- Recognize national standards for comprehensive, entry level competencies and behaviors of graduates of academic programs that prepare CNS's
- Provide the public, regulators and employers with a standardized definition of the role and scope of practice for the CNS
- Allow for regular monitoring of CNS workforce supply and demand
- Continue to provide title protection for the CNS
- Review congruency with consensus model

Ms. Douglas noted that some of the requested changes would require legislation and would not be acted upon by the Board.

Dr. Hahn moved to accept the petition for amendments to regulations and initiate rulemaking by adoption of a Notice of Intended Regulatory Action. The motion was seconded and carried unanimously.

Legislative Proposal Regarding Summary Suspension or Summary Restriction of a Nursing Education Program:

Ms. Douglas reviewed the draft legislation regarding §54.1-2408.1 that would give the Board authority to summarily suspend or summarily restrict a nursing education program that constitutes a danger to the public health or safety. Ms. Hartz moved to accept the legislative proposal as drafted. The motion was seconded and carried unanimously.

Legislative Proposal Regarding Exemption from Licensure:

Ms. Douglas reviewed the draft legislation regarding §54.1-3001 that would provide an exemption from licensure for nurses from other states for practice in a summer camp or a recreational or educational activity. Ms. Lane moved to accept the legislative proposal as drafted. The motion was seconded and carried unanimously.

Legislative Proposal Regarding Recovery of Costs:

Ms. Douglas reviewed the draft legislation regarding §54.1-3007.1 that would authorize recovery of costs for investigation and monitoring of a person with a multistate licensure privilege (no Virginia license) against whom disciplinary action has been imposed. Dr. Hahn moved to accept the legislative proposal as drafted. The motion was seconded and carried unanimously. Ms. Douglas noted that a review of the proposal by Nurse Licensure Compact counsel would be necessary.

RECESS: The Board recessed at 10:15 A.M.

RECONVENTION: The Board reconvened at 10:35 A.M.

Proposed Amendments for Nursing Education Programs:

Ms. Douglas reviewed the draft proposed regulations and public comments that were received. Most of the comments received were from Excelsior College students and are not related to the proposed draft regulations.

Dr. Saxby stated the regulations were reorganized to improve clarity of the approval process and monitoring of programs. She stated the problem with the quality of some nursing education programs and the increase in the number of proceedings involving nursing education programs are evidence that the Board needs to revise its regulations to add specificity and rigor to its requirements and approval process. By strengthening the regulations for program approval, the board intends to assist nursing education programs in graduating nurses who will be able to practice with clinical skills and nursing knowledge adequate to protect the health and safety of patients in Virginia.

The draft proposal was reviewed; Ms. Piersall moved to adopt the proposed amendments. The motion was seconded and carried unanimously.

OPEN FORUM: **Alexa Zaldeonis, CEO, NCBTMB** was present and spoke to the Board regarding the NCBTMB. Ms. Zaledonis provided information that included the NCBTMB has a 20 year history and that their exam is accepted in 38 states. She also stated a national certification advanced practice exam (NCAP) is being developed.

Hampton University – Pamela Hammond, Hilda Williamson and Elnora Daniel were present and spoke to the Board in regards to the nursing education program at Hampton University. Dr. Hammond provided a brief history of the program and further informed the Board that Hampton University takes student outcomes very seriously. She announced Dr. Williamson was appointed interim Dean on May 11, 2011 when the former Dean was relieved of her duties. Dr. Hammond, Provost, asked the Board to allow students that have been notified of being accepted into the program to begin classes. She stated that Hampton University had sent letters of acceptance to a total of 383 students for June and August admission.

EDUCATION:

Education Special Conference Committee Meeting – May 10, 2011:

Ms. Piersall noted points of interest in the minutes from the May 10, 2011 meeting that included recommendations for several nursing education programs with NCLEX pass rates below 80% for 3 or more years for Hampton University, Southwest Virginia Community College PN program, New Horizons PN program, Richmond School of Health and Technology PN program. Recommendations are to offer a consent order to these programs to withdraw approval, stay the withdrawal contingent upon certain terms and conditions.

CLOSED MEETING:

Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(7) of the *Code of Virginia* at 12:01 P.M. for consultation with the provision of legal advice by the Assistant Attorney General in the matter of the Education Special Conference Committee recommendations. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Dr. Saxby, Ms. Dowling, Ms. Davis, Ms. Tiller, Dr. Cane, Mr. Owens and Mr. Casway 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 1:25 P.M.

Ms. Lindsay 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.

ACTION:

Ms. Hartz moved to adopt the recommendations of the Education Special Conference Committee as amended to include a change in the consent orders to include:

- Change calendar year to “academic calendar year”
- All students will be notified in writing of the consent order
- No new or transfer students will begin classes for two years after the date the consent order is signed for RN programs and one year for PN programs

The motion was seconded and carried. Dr. Selig, Ms. Francisco, Ms. Gregory, Dr. Hahn, Ms. Hartz, Ms Lane, Ms. Piersall, Dr. Schultz and Mr. Traynham were in favor of the motion. Ms. Jones-Clarke and Ms. Lindsay opposed the motion.

OTHER MATTERS:

Board Counsel Update Regarding Appeals:

Mr. Casway provided an update on the following pending appeals of Board of Nursing decisions:

- Darlene Bamaiyi, CNA Reinstatement – appeal filed in Hampton Circuit Court regarding denied reinstatement application. Appeal filed in Williamsburg Circuit Court regarding denied reinstatement application. The attorneys agreed to a formal hearing scheduled to be heard before the Board of Nursing on May 18, 2011.
- Sylvester Britt, RN – notice filed and petition is pending in Portsmouth Circuit Court, waiting to set hearing with attorney.
- Colby Mansell, RN – Notice of appeal received, but have not received petition for appeal. The deadline to file is next week in Spotsylvania Circuit Court.
- Tania Lee, CNA Reinstatement – A hearing has been set for October 13, 2011 in Fauquier Circuit Court.
- David Thurston, RN – Notice of appeal filed after the final decision of the Board following an informal conference conducted by an agency subordinate. If the appeal proceeds (as the petition for appeal has not yet been filed), then it will be in Norfolk Circuit Court.

Revenue, Expenditure and Cash Balance Memo:

Ms. Douglas reviewed the memo from Dr. Cane that indicates a projected further shortfall for the Board of Nursing.

Sanction Reference Point Scoring Sheets:

Mr. Casway discussed providing the sanction reference point worksheet to all respondents following an informal conference. The Board of Medicine and Board of Pharmacy have been providing a copy to respondents, other boards have not. This topic was discussed at the Board of Health Professions meeting held on May 3, 2011 and was referred to Dr. Cane for recommendations for all boards.

Violation of Rules Governing NLCEX Administration:

Ms. Douglas reviewed the process when a violation of the NLCEX administration rules occurs. The Board and the candidate are notified by Pearson, the exam results are suspended, and the applicant is given the opportunity to appeal with NCSBN. The Board has 3 current cases pending regarding violation of NCLEX rules related to cell phone use during breaks. The applicants will have to apply to retest. Ms. Douglas is raising the issue with the Board for discussion and advice on how to proceed with these when the repeat application is received. Ms. Gregory moved that the Board offer a pre-hearing consent order for a reprimand and approve the applicant to retake the exam. The motion was seconded and carried unanimously.

Implementation of Online Licensing:

Ms. Douglas reported online application process for RN and LPN by exam and endorsement went live on May 3, 2011. The Board of Nursing is the first board in DHP to implement this process. Several announcements were issued to nursing education programs, an announcement was sent to the Virginia Nurses Association and an announcement has been placed on the Board of Nursing website. Several Board of Nursing staff have been key in this process working with DHP IT staff. The online application process allows the applicant to submit the application and fee online. The applicant has the ability to access the status of the application using the online checklist. There is no longer a requirement for a photograph to be attached to the application and the application does not require signature of a notary. Nursing education programs have been notified they are no longer able to submit one check for multiple applications. Supporting documents such as transcripts, conviction documents, etc. are being sent to the Board of Nursing by mail.

Board of Nursing staff are printing the application and including the supporting documents as record keeping file at this time until procedures are in place that will allow electronic storage of file.

Paperless Licensing:

The paperless licensing process proposes to issue an initial paper license without an expiration date. Verification of expiration dates can be done using DHP license lookup on the website or using the automated telephone confirmation system. A full report will be prepared and presented at the Directors meeting in June.

Request for Review of Board of Nursing Guidance Documents:

Ms. Douglas reported she attended a Virginia Nurses Association Board of Directors meeting wherein a request was made for a review of the current Board of Nursing guidance documents. An advisory committee will be formed to include stakeholders, Board members and staff to review the guidance documents and make recommendations to the Board.

Virginia Regional Action Coalition (RAC) Update:

No RAC meetings have been held at this time. Board of Nursing staff will serve as liaisons to the established workgroups.

RECESS: The Board recessed at 2:10 P.M.

RECONVENTION: The Board reconvened at 2:55 P.M.

EDUCATION: **Education Issues:**

- 2010 Nurse Aide Technical Report – Dr. Saxby informed the Board an increase in the skills pass rate in Virginia is directly related to the training sessions that began a few years ago. The report indicated a skills pass rate of 74% and written pass rate of 92% for Virginia which reflects an increase from previous years.
- Excelsior College – Dr. Saxby provided an overview of her meeting with Excelsior College staff on May 13 and 14, 2011. She stated she

was impressed by the assessment and evaluation of students as they progress through the program and the final comprehensive exam, however due a lack of both didactic and clinical experiences, the program does not appear to meet the Virginia requirements for approval as a nursing education program. Dr. Saxby will provide a full report at the July Board of Nursing meeting.

Dr. Cane, Mr. Owens, Ms. Lindsay, Dr. Saxby and Ms. Dowling left the meeting.

CONSIDERATION OF CONSENT ORDERS AND RECOMMENDATIONS REGARDING APPLICANTS:

CLOSED MEETING: Ms. Francisco moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 3:17 P.M. for the purpose of deliberation to consider consent orders and recommendations regarding applicants. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Power, Ms. Krohn, Ms. Mitchell, Ms. Tiller, Ms. Davis and Mr. Casway 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 3:31 P.M.

Ms. Francisco 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.

Manjula P. Moore, R.N. 0001-217941

Ms. Piersall moved to accept the consent order for voluntary surrender for indefinite suspension of Manjula Moore's right to renew her license to practice professional nursing in Virginia. The motion was seconded and carried unanimously.

Gay E. Plack, R.N. 0001-136733

Ms. Piersall moved to accept the consent order for voluntary surrender for indefinite suspension of Gay Plack's license to practice professional nursing in Virginia. The motion was seconded and carried unanimously.

Cindi D. Smolarksy, L.P.N. 0002-080091

Ms. Piersall moved to accept the consent order for voluntary surrender for indefinite suspension of the license of Cindi Smolarksy to practice practical nursing in Virginia. The motion was seconded and carried unanimously.

Dora A. Baah, R.N. 0001-152047

Ms. Piersall moved to accept the consent order to indefinitely suspend the professional nursing license of Dora Baah until such time as Ms. Baah can

demonstrate that she is safe and competent to resume practice. The motion was seconded and carried unanimously.

Trina J. Fluellen, L.P.N. 0002-079014

Ms. Piersall moved to accept the consent order to indefinitely suspend the practical nursing license of Trina Fluellen until such time as she can demonstrate she is safe and competent to resume practice. The motion was seconded and carried unanimously.

Melinda L. Hayes, R.N. 0001-156621

Ms. Piersall moved to accept the consent order to reprimand Melinda Hayes and to indefinitely suspend the professional nursing license of Ms. Hayes, but stay said suspension contingent upon her continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Julie R. Johnson, L.P.N. 0002-072958

Ms. Piersall moved to accept the consent order to indefinitely suspend the right of Julie Johnson to renew her practical nursing license, but stay said suspension contingent upon proof of entry into the Health Practitioners Monitoring Program and remaining in compliance thereafter with the terms of the program. The motion was seconded and carried unanimously.

Wanda S. Justus Frazier, L.P.N. 0002-054916

Ms. Piersall moved to accept the consent order for the voluntary surrender for indefinite suspension of Wanda Justus Frazier's license to practice practical nursing in Virginia. The motion was seconded and carried unanimously.

Tonya Lewis, R.N. 0001-204803

Ms. Piersall moved to accept consent order for the voluntary surrender for indefinite suspension of the license of Tonya Lewis to practice professional nursing in Virginia. The motion was seconded and carried unanimously.

Joseph Drake, C.N.A. 1401-141311; R.M.A. Applicant

Ms. Lane moved to accept the recommended decision of the informal conference committee to deny the application of Joseph Drake for registration by exam as a medication aide. The motion was seconded and carried unanimously.

Tina K. Hutchind Ordonez, R.M.A. Applicant

Ms. Lane moved to accept the recommended decision of the informal conference committee to deny the application of Tina Hutchind Ordonez for registration by exam as a medication aide. The motion was seconded and carried unanimously.

Ka'Rell L. Knox, C.N.A. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to deny the application of Ka'Rell Knox for certification by endorsement as a nurse aide. The motion was seconded and carried unanimously.

Leo Parsaoran, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to deny the application of Leo Parsaoran for licensure by repeat examination as a practical nurse. The motion was seconded and carried unanimously.

Georgette Bolden, C.N.A. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to deny the application of Georgette Bolden for certification by endorsement as a nurse aide. The motion was seconded and carried unanimously.

Norvina Saint-Louis, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to reprimand Norvina Saint-Louis and deny her application for licensure by exam as a practical nurse. The motion was seconded and carried unanimously.

Marie LeHaut-Derival, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to reprimand Marie LeHaut-Derival and to deny her application for licensure by exam as a practical nurse. The motion was seconded and carried unanimously.

Marie Rose Desir, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to reprimand Marie Rose Desir and to deny her application for licensure by exam as a practical nurse. The motion was seconded and carried unanimously.

Bertolande Bertrand, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to reprimand Bertolande Bertrand and deny her application for licensure by exam as a practical nurse. The motion was seconded and carried unanimously.

Yollette Tema, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate reprimand Yollette Tema and to deny her application for licensure by exam as a practical nurse. The motion was seconded and carried unanimously.

Ketty Mozard, L.P.N. Applicant

Ms. Lane moved to accept the recommended decision of the agency subordinate to reprimand Ketty Mozard and to deny her application for licensure by exam as a practical nurse. The motion was seconded and carried unanimously.

Monee Pierre, C.M.T. Applicant

Ms. Lane moved to accept the recommended decision of the informal conference committee to reprimand Monee Pierre and to approve the

application of Monee Pierre for certification by exam as a massage therapist.
The motion was seconded and carried unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 3:32 P.M.

Evelyn Lindsay, L.P.N.
Secretary

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