

**VIRGINIA BOARD OF NURSING
MINUTES
July 15, 2014**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:02 A.M. on July 15, 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:

Joyce A. Hahn, PhD, APRN, NEA-BC; Vice President
Guia Caliwagan, RN, MAN
Evelyn Lindsay, LPN
Louise Hershkowitz, CRNA, MSHA
Kelly S. McDonough, DNP, RN
William Traynham, LPN, CSAC

BOARD MEMBERS ABSENT:

Jeanne Holmes, Citizen Member
John M. Horn, LPN
Trula Minton, MS, RN; Secretary

STAFF PRESENT:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Gloria D. Mitchell, RN, MSN, MBA, Deputy Executive Director
Jodi P. Power, RN, JD, Deputy Executive Director
Paula B. Saxby, RN, PhD, Deputy Executive Director
Linda Kleiner, RN, Discipline Case Manager
Charlette Ridout, Senior Nursing Education Consultant
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General
David E. Brown, D.C.; Director, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
Two representatives from the Virginia Nurses Association on behalf of James Pickral.

ESTABLISHMENT OF A QUORUM:

With 7 members present, a quorum was established.

ANNOUNCEMENTS:

- Jason Brown joined the Department of Health Professions on June 10, 2014 as the Deputy Director for Administration.
- Louise Hartz, citizen member and Allison Gregory, RN have been notified by the Secretary of the Commonwealth's Office that they have been replaced. However the names of the individuals appointed to the registered nurse position and the citizen member position have not been released.

The Board will recognize Ms. Hartz and Ms. Gregory for the service at a later date.

- Ms. Douglas has been informed of that the Secretary of the Commonwealth's Office is actively considering candidates for the vacant licensed practical nurse position.
- Dr. Ingalls asked Ms. Hershkowitz to serve as chair of the Committee of the Joint Boards of Nursing and Medicine, Ms. Hershkowitz accepted. Dr. Ingalls and Ms. Douglas will meet to discuss other committee assignments in light of vacancies and new board members.

UPCOMING MEETINGS:

- Virginia Nurses Association Roundtable, July 24, 2014 in Richmond
- NLCA Compliance Committee, July 30 -31, 2014 in Chicago. Ms. Douglas plans to attend.
- NLCA meeting, August 12, 2014 in Chicago. Ms. Douglas, who serves as co-chair plans to attend.
- NCSBN Annual Meeting and Delegate Assembly, August 13 – 15, 2014 in Chicago. Ms. Douglas, Ms. Caliwagan and Ms. Ridout plan to attend.
- NCSBN NCLEX Conference, September 29, 2014 in Charlotte NC. Ms. Ridout plans to attend.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

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

Minutes:

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| May 19, 2014 | Panel – Dr. Hahn |
| May 20, 2014 | Quorum – Dr. Ingalls |
| May 21, 2014 | Panel – Dr. Ingalls |
| May 21, 2014 | Panel – Dr. Hahn |
| May 22, 2014 | Panel – Dr. Ingalls |
| June 2, 2014 | Panel – Ms. Minton |
| July 7, 2014 | Telephone Conference Call – Dr. Ingalls |

Reports:

Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics
Finance Report
Agency Subordinate Tracking Log

DIALOGUE WITH AGENCY DIRECTOR:

Dr. Brown provided information on the following topics:

- There will be training for new Board members in September 2014 a tentative date is September 6; current Board members are also able to attend.
- Training for Department of Health Professions inspectors and investigators is being planned for sometime this fall.

- Dr. Brown provided information on Jason Brown's background and that Mr. Brown is very pleased to be a part of DHP.

REPORTS:

Health Practitioners Monitoring Program Report:

Ms. Douglas noted the number of participants in the Health Practitioners Monitoring Program from the Board of Nursing remain level.

Executive Director Report:

Ms. Douglas asked if Board members had any questions regarding the information in the report and added information regarding the Virginia Action Coalition Access to Care Workgroup which focused on the APRN Consensus Model and the gaps between Virginia statutes and the model. Statutory changes will be needed for Virginia to be consistent with the national model. Ms. Douglas stated the APRN leadership may have legislation for the 2015 General Assembly.

National Council of State Boards of Nursing (NCSBN) Executive Officer meeting:

Ms. Douglas attended the meeting that discussed licensure models. The group agreed that the mutual recognition model remains the best, however not all states are members. The group identified several items for possible amendment that have been obstacles for some states to join the Nurse Licensure Compact. States in attendance agreed that with amendments to the NLC to ensure more uniform licensure requirements, more states would join. The following items for inclusion were considered:

- NCLEX testing
- English proficiency testing if nursing education from outside of the United States
- Graduating from a Board approved program
- Provide a social security number
- Have an active unencumbered license for endorsement to another state
- Pre-licensure criminal background checks
- Not enrolled in an alternative program for chemical dependency

Proposed amendments will be formalized and shared with member boards, the NCSBN Delegate Assembly and the NLCA prior to any legislative initiatives

Criminal Background Checks:

Ms. Douglas reported that criminal background checks are currently not conducted by any Department of Health Professions board. Four of the twenty-four states in the Nurse Licensure Compact do not conduct criminal background checks, and Virginia is one of those four. Dr. Brown reported that Jaime Hoyle, Chief Deputy Director for DHP is researching the issue of pre-licensure criminal background checks for all boards. Information regarding self-disclosed criminal convictions on Board of Nursing applications has been provided to Ms. Hoyle. NCSBN has also provided data regarding self-disclosed convictions versus convictions discovered by background checks.

Ms. Douglas stated that the Board of Nursing has voted twice to support criminal background check legislative initiatives; however it has not gone

forward. Dr. Brown anticipates legislation being introduced in the next General Assembly session however the scope of this initiative has not been finalized.

Nurse Licensure Compact Executive Committee meeting:

Ms. Douglas attended the Executive Committee meeting that was held immediately prior to the Executive Officer meeting. The meeting mainly focused on the development of the APRN compact model regulations that will be presented to the Delegate Assembly at the NCSBN Annual Meeting in August. Major statutory changes and congruence with the national APRN consensus model will be necessary in order for Virginia to participate.

Education/Accreditation Committee meeting:

Dr. Hahn was present at the meeting held on May 20, 2014 which was convened to study the issue of whether national nursing accreditation should be required for registered nursing education programs. Dr. Hahn reviewed the minutes provided to Board members which contained items identified by the Committee as barriers to nursing education program accreditation. Some of these barriers include cost of accreditation, availability of masters' prepared faculty and programs located in rural areas.

The Committee plans to meet in September to review information collected by Committee members regarding various items.

OTHER MATTERS:

Board of Nursing Appeals Update:

Ms. C. Mitchell provided information on the pending Board of Nursing appeals.

RECESS:

The Board recessed at 9:53 A.M.

RECONVENTION:

The Board reconvened at 10:09 A.M.

National Council of State Boards of Nursing (NCSBN) 2014 Summary of Recommendations to Delegate Assembly:

Ms. Douglas reviewed the information noting the most significant items include:

- The proposed revision to the NCSNB Model Practice Act and Rules being recommended by the Distance Learning Education Committee. The proposed revision addresses the issues Member Boards have expressed related to the regulation of distance education programs and their recommendations for more consistency across jurisdictions. Dr. Saxby serves on this committee.
- The proposed revisions to the NCSBN Bylaws addressing the simultaneous vacancy of the president and president-elect positions.
- The proposed revision to the APRN Interstate Compact to provide uniform licensure requirements for licensing advanced practice registered nurses through a revised APRN interstate compact consistent with the APRN Consensus Model. The revision also includes proposed changes to improve the implementation of an interstate compact based on the experience of the Nurse Licensure Compact.

Modification of Board Orders:

Ms. Power reported an increase in requests for extensions to deadlines in which to complete terms contained in disciplinary orders. These typically relate to stated deadlines for licensees to complete online courses, pay monetary penalties, submit reports of ordered chemical dependency and/or mental health evaluations, and complete refresher courses. Staff met to discuss how to avoid or reduce the requests for extensions and how to handle them in a consistent manner. Ms. Power acknowledged that some requests were made for legitimate reasons.

Ms. Power presented recommendations for the Board to consider when issuing orders in an effort to avoid or reduce requests for extensions as follows:

- Monetary penalties to be paid within 90 days of entry of the order.
- Chemical dependency/mental health evaluation reports to be submitted within 90 days of entry of the order.
- Online (or other) courses to be completed and evidence of completion submitted within 60 days of entry of the order.
- Refresher/Extensive Orientation courses to be completed within 90, 120 or 180 days of entry of the order determined by the Board based upon the facts and circumstances of the individual case.

Dr. Hahn moved to adopt the recommendations for terms. The motion was seconded and carried unanimously. These recommendations represent an increase in the time frame in which a licensee has to comply and would ensure more consistency in Board actions. Ms. Power added that probation terms will be amended to reflect the adopted recommendations and will be implemented in the order.

Special Conference Committee Authority with Applicants:

Ms. Douglas reported that effective July 1, 2014 new legislative authority exists allowing Special Conference Committees to act on applicants. As a result, informal conference applicant recommendations will no longer have to be ratified by the full Board.

Pilot - DHP Investigators Testifying by Videoconference:

Ms. Douglas stated that DHP investigators can testify by videoconference for routine testimony; when the investigators report is not contested; and the respondent is in agreement. The Board of Nursing plans to implement this in September 2014 if Board members are in agreement. This will greatly reduce the amount of time investigators spend away from their duties and travel related expenses. Board members were in agreement with the plan.

Tri-Regulator Collaborative Position Statement on Practice Location for Consumer Protection:

Ms. Douglas indicated the affirmed position of the Tri-Regulator Collaborative (Federation of State Medical Boards, National Association of Boards of Pharmacy and the National Council of State Boards of Nursing) that in a consumer protection model, health care practice occurs where the recipient of the health care services is located.

OPEN FORUM:

No one present wished to address the Board.

EDUCATION:

Education Special Conference Committee Minutes:

Dr. Ingalls reviewed the minutes of July 8, 2014. Ms. Hershkowitz moved to approve the recommended actions from the Special Conference Committee and to accept the minutes. The motion was seconded and carried unanimously.

http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\Meeting\27\20644\Minutes_DHP_20644_v1.pdf

Education Issues:

Dr. Saxby reported there are 15 pending application for nursing education programs, some have been in process for 3 to 4 years in various stages of the process as the applicants have not provided the necessary information.

NNAAP 2013 Technical Report:

Dr. Saxby discussed on the report that contained information six months before and six months after the changes in the NNAAP exam. Virginia data is in line with the national data. Written test scores for Virginia is 92%, the national test score is 92%. Skills test scores for Virginia is 73%, the national test score is 75%.

Dr. Saxby also reported on leadership changes in NACES, the subcontractor for PearsonVue for nurse aide testing which has resulted in a decrease in customer services to applicants for nurse aide testing. Other states are having similar issues; PearsonVue is addressing concerns with NACES.

Mary Marshall Scholarship Fund:

Dr. Saxby reviewed the report provided to Board members and clarified that a total of \$65,000 can be dispersed annually. A meeting is scheduled in August with the Virginia Department of Health, Mary Marshall Scholarship Fund and Board of Nursing to determine disbursements for the year. Board members asked if the amount can be increased, Board staff will research and provide information to the Board at a future meeting.

LEGISLATION/REGULATION:

Status of Regulatory Actions:

Ms. Yeatts reported no changes to the pending regulatory action for the Board of Nursing as of June 27, 2014.

Ms. Yates stated no movement on the nurse practitioner and prescriptive authority emergency regulations make it impossible to have permanent regulations in place when the emergency regulations expire November 6, 2014. When that occurs we will need to remove the emergency regulations from the website as the regulations will be in conflict with the law.

Ms. Yates also stated that no movement on the emergency regulations regarding provisional licensure will make it impossible to have permanent regulations in place when the emergency regulations expire January 28, 2015. This will result in the Board not able to issue provisional licenses after that

date. Ms. Douglas stated this will allow for new legislation to be introduced that may be different from the current regulations.

Response to Petition for Rulemaking:

Ms. Yeatts reviewed the petition for rulemaking received from Ashley Church regarding 18VAC90-20-221 to include state, federal and local government agencies as approved providers of workshops, seminars, conferences or courses relevant to nursing practice. Ms. Hershkowitz moved to adopt the petition by fast-track action. The motion was seconded and carried. Dr. Hahn, Dr. Ingalls, Ms. Caliwagan, Ms. Lindsay and Ms. Hershkowitz were in favor of the motion. Dr. McDonough and Mr. Traynham opposed the motion.

Consideration of Proposal for Board Authority to Issue Restricted Volunteer License (RN, LPN, LNP):

Ms. Yeatts reported the Board has been requested to consider legislation that would allow it to grant a license similar to a restricted volunteer license for doctors and dentists. This bill would authorize a new license category for nurses and nurse practitioners to practice as volunteer in a public health or community free clinic without maintenance of a full license. After discussion, Ms. Hershkowitz moved to approve the proposed legislation with amendments to 54.1-3021.1(A) and 54.1-2957.04(A)(1) and (A)(2).

The motion was seconded and carried. Dr. Hahn, Dr. Ingalls, Ms. Caliwagan, Ms. Lindsay and Ms. Hershkowitz were in favor of the motion. Dr. McDonough and Mr. Traynham opposed the motion.

RECESS: The Board recessed at 11:55 A.M.

RECONVENTION: The Board reconvened at 1:03 P.M.

CONSIDERATION OF CONSENT ORDERS AND RECOMMENDATIONS REGARDING APPLICANTS:

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 1:06 P.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. G. Mitchell, Ms. Power, Ms. Kleiner, Ms. Tiller, Ms. Davis and Ms. C. 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 1:12 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.

Kristen Philpott, CNA 1401-133547

Dr. Hahn moved that the Board of Nursing accept the consent order to accept the voluntary surrender for indefinite suspension of the nurse aide certificate of Kristin Philpott. The motion was seconded and carried unanimously.

Joyce Thomas, CNA Reinstatement Applicant 1401-062269

Dr. Hahn moved that the Board of Nursing accept the consent order to accept the voluntary surrender for indefinite suspension of the nurse aide certificate of Joyce Thomas, but stay the suspension contingent upon proof of Ms. Thomas' re-entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

William D. Brown, MD, CMT 0019-011849

Dr. Hahn moved that the Board of Nursing accept the consent order to accept the voluntary surrender for indefinite suspension of the massage therapy certificate of William Brown. The motion was seconded and carried unanimously.

Kristie Charles, LPN 0002-077041

Dr. Hahn moved that the Board of Nursing accept the consent order to indefinitely suspend the practical nursing license of Kristie Charles, but stay the suspension contingent upon Ms. Charles' continued compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Katherine Bacso, RN 0001-233104

Dr. Hahn moved that the Board of Nursing accept the consent order to indefinitely suspend the registered nursing license of Katherine Bacso, but stay the suspension contingent upon Ms. Bacso's entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Melissa Weant, RN 0001-187120

Dr. Hahn moved that the Board of Nursing accept the consent order to indefinitely suspend the registered nursing license of Melissa Weant, but stay the suspension contingent upon Ms. Weant's re-entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Donna Murphy, RN 0001-077843

Dr. Hahn moved that the Board of Nursing accept the consent order to indefinitely suspend the registered nursing license of Donna Murphy and to issue a reprimand. The motion was seconded and carried unanimously.

Julie R. Bangs, RN 0001-207169

Dr. Hahn moved that the Board of Nursing accept the consent order to indefinitely suspend the registered nursing license of Julie Bangs but stay the suspension contingent upon Ms. Bangs' re-entry into the Health Practitioners

Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Luralee Dowling, RMA 0031-006890; CNA 1401-141514

Dr. Hahn moved that the Board of Nursing accept the consent order to accept the voluntary surrender for indefinite suspension of the medication aide registration of Luralee Dowling. The motion was seconded and carried unanimously.

Patti Ashworth, LPN 0002-078275

Dr. Hahn moved that the Board of Nursing accept the consent order to indefinitely suspend the practical nursing license of Patti Ashworth. The motion was seconded and carried unanimously.

Glenn S. Douglas, RN 0001-141131

Dr. Hahn moved that the Board of Nursing accept the consent order to accept the voluntary surrender for indefinite suspension of the registered nursing license of Glenn Douglas. The motion was seconded and carried unanimously.

Carolyn Martinez, CMT 0019-002131

Dr. Hahn moved that the Board of Nursing accept the consent order accept the voluntary surrender for indefinite suspension of the massage therapy certificate of Carolyn Martinez. The motion was seconded and carried unanimously.

COMMITMENT TO ONGOING REGULATORY EXCELLENCE (CORE) MEETING:

The meeting scheduled for today at 2:00 p.m. will not be held.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 1:13 P.M.

Trula Minton, MS, RN
Secretary

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