

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
BUSINESS MEETING MINUTES
October 10, 2018**

TIME AND PLACE: The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 10:00 A.M., October 10, 2018 in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

MEMBERS PRESENT: Louise Hershkowitz, CRNA, MSHA; Chair
Marie Gerardo, MS, RN, ANP-BC
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP
Kevin O'Connor, MD
Kenneth Walker, MD

MEMBERS ABSENT: Lori Conklin, MD

ADVISORY COMMITTEE

MEMBERS PRESENT: Kevin E. Brigle, RN, NP
Mark Coles, RN, BA, MSN, NP-C
Wendy Dotson, CNM, MSN
Stuart F. Mackler, MD
Janet L. Setnor, CRNA

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director; Board of Nursing
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice; Board of Nursing
Stephanie Willinger; Deputy Executive Director for Licensing; Board of Nursing
Huong Vu, Executive Assistant; Board of Nursing

OTHERS PRESENT: Erin Barrett, Assistant Attorney General; Board Counsel
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
William L. Harp, MD, Executive Director; Board of Medicine

IN THE AUDIENCE: Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Mary Duggan, American Association of Nurse Practitioners (AANP)
Tyler Cox, Medial Society of Virginia (MSV)
Gerald Canaan, II, Esq.
Michael Goodman, Esq.
Pat Dewey, Board of Nursing Discipline Case Manager
Joseph Corley, Board of Nursing Licensing Staff

INTRODUCTIONS: Committee members, Advisory Committee members and staff members introduced themselves.

ESTABLISHMENT OF A QUORUM:

Ms. Hershkowitz called the meeting to order and established that a quorum was present.

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- ANNOUNCEMENT: Ms. Douglas noted the following announcement:
- Joseph Corley has accepted the Nurse Practitioner Licensing Application Compliance Specialist position. Today is his first day.
 - Pat Dewey has accepted the Discipline Case Manager RN for the Nurse Aide, Medication Aide and Massage Therapy Programs position. Ms. Dewey was transferred from Enforcement Division.
 - Rebecca Poston, PhD, RN, CPNP, former Board of Nursing member, has accepted the P-14 Agency Subordinate/Probable Cause Review position.
- REVIEW OF MINUTES: The minutes of April 11, 2018 Business Meeting and Formal Hearing, and the May 17, 2018 Regulatory Advisory Ad Hoc Committee Meeting were reviewed. Ms. Gerardo moved to accept all of the minutes as presented. The motion was seconded and passed unanimously.
- PUBLIC COMMENT: There was no public comment received.
- DIALOGUE WITH AGENCY DIRECTOR: Dr. Brown or Dr. Allison-Bryan were not available to attend the meeting, there was no report provided.
- OLD BUSINESS: **Regulatory Update:**
Ms. Yeatts provided the chart of regulatory actions as of October 10, 2018 in place of the chart provided in the Agenda noting the following:
- The Emergency Action on Regulations for Autonomous Practice for Certain Nurse Practitioners (HB793) has been adopted by Board of Nursing and Board of Medicine with one amendment relating to the definition of the equivalent of five years of full-time clinical practice. The regulations are currently at the Department of Planning Budget for review.
 - The Proposed Regulations for Performance of and for Supervision and Direction of Laser Hair Removal – HB2119 was passed by the 2017 General Assembly and was effective as of July 1, 2017. The regulations for nurse practitioners (18VAC90-30) will need to be amended to define “direction and supervision.” Board of Nursing and Medicine adopted the proposed regulations as recommended. The comment period for the proposed regulations will begin on October 29, 2018 and end on December 28, 2018. The public hearing for the proposed regulations will be conducted during the Board of Nursing business meeting on November 13, 2018.
 - The Proposed Regulations to Eliminate Separate License for Prescriptive Authority (18VAC90-40) was adopted by the Board of Nursing on September 18, 2018. The Board of Medicine will act on it on October 18, 2018.

- The Emergency Regulations on Prescribing of Opioids for Nurse Practitioners (18VAC90-30 and 40) will expire on November 7, 2018 and the Board cannot adopt final regulations for at least 15 days after the close of comment period on September 9, 2018. A request was filed to extend the emergency regulations for another six months to allow completion of the promulgation of replacement regulations. The extension was granted and the new expiration date is May 6, 2019. Two comments were received regarding the final proposed regulations as provided in the handout. Ms. Yeatts noted the following amendments to the final proposed regulations:
 - ❖ Evaluation of the patient for acute pain shall exclude sickle cell patients.
 - ❖ Tramadol is defined as an atypical opioid.
 - ❖ The urine drug screens will be conducted randomly at the discretion of the practitioner at least once a year.
 - ❖ Nurse practitioners who have obtained a SAMHSA waiver and have been authorized by the Boards for autonomous practice can prescribe buprenorphine for opioid addiction without a practice agreement.

Ms. Yeatts said that the final regulations are presented for the Committee's action. Ms. Yeatts added that the Board of Medicine will consider the final regulations on October 18, 2018 and the Board of Nursing will consider on November 13, 2018.

Dr. O'Connor moved to recommend the final proposed regulations to the Boards of Medicine and Nursing for adoption as presented. The motion was seconded and passed unanimously.

NEW BUSINESS:

Environmental Scan:

Ms. Hershkowitz asked the Advisory Committee members to share with the Committee of the Joint Boards any updates or trends in their practice environments.

Mr. Coles said that he has heard positive feedback regarding nurse practitioner regulations.

Mr. Brigle agreed with Mr. Coles.

Ms. Dotson said that there is high demand of certified nurse midwives (CNMs) in obstetric care. Ms. Dotson added that the American College of Nurse-Midwives (ACNM) will hold a Conference in Washington DC and they are looking for speakers. Ms. Hershkowitz asked for the date of the Conference. Ms. Dotson said she will find out and pass it on.

Dr. Mackler suggested that nurse practitioners examine the impact on salaries when nurse practitioners are granted authorization for autonomous practice.

Ms. Setnor shared there continue to be reimbursement/billing issues for Certified Registered Nurse Anesthetists (CRNAs) who provide services for Anthem participants.

Ms. Hershkowitz thanked all Advisory Committee Members for the information.

Board of Nursing Executive Director Report:

- **Development of attestation forms and process** – Ms. Douglas deferred this matter to Ms. Willinger.
- **Communication to nurse practitioners regarding HB793** – Ms. Douglas stated that Boards of Nursing and Medicine sent out notification via email. Information was also included in Board of Medicine “Board Briefs.” Board of Nursing staff continue to receive many calls regarding autonomous practice on a daily basis.
- **Frequently asked questions to staff** – Ms. Douglas commented that many questions indicate that people need to be more familiar with laws and regulations. She noted that some questions received from nurse practitioners require collaboration between Boards of Medicine, Pharmacy and Nursing.
- **DHP Paperless License Initiative** - Ms. Douglas stated that DHP Paperless Committee has finalized its work and, starting in 2019, all 13 Boards will no longer issue hard paper licenses, certifications, registrations, or permits upon renewal. She added that a final hard copy will be issued that contains no expiration date during the next renewal. Wall Certificates will continue to be issued and new licensees will receive a hard copy license with no expiration date indicated. She noted that this is a huge cost saving for DHP and will reduce the risk of fraud. Ms. Douglas said that verification of current licensure status may be obtained via License Lookup serving as primary source verification. Licensees who wish to obtain a paper license can do so by paying a duplicate fee.
- **NBCSN APRN Compact Update** – Ms. Douglas said that at the July NCSBN Board of Directors meeting, the board decided to establish a task force to revisit the APRN Compact due to some conflicts between state laws and compact language. The task force will have recommendations by the next NCSBN Mid-Year meeting. Ms. Douglas stated that NCSBN is also making plans to convene a forum of board of nursing regulators to discuss inconsistencies and challenges of the APRN Consensus Model. Ms. Douglas added that David Benton, NCSBN CEO, met with the Federal Trade Commission’s office of Policy Planning to continue NCSBN efforts in educating staff and commissioners on issues related to APRN scope of practice.

NCSBN APRN issues report – Dr. Hills attended the NCSBN APRN Knowledge conference call on August 9, 2018 and reported the following:

1. Ebola is back in the Republic of the Congo
2. Emergency NP certification

- AANP Certification Board in collaboration with the American Academy of Emergency Nurse Practitioners has developed an Emergency specialty exam which will be available only to Family Nurse Practitioners
 - Great need for any provider in rural parts of the country is a driver
 - The rationale for those in Favor: FNP training includes the skill to stabilize the unstable patient and because 85% of ER visits are primary care
 - The rationale for those Against: (Adult-Gero Acute Care NPs) - FNPs are not prepared for the Acute Care patient and providing acute care is outside the scope of the original FNP population focus
 - The APRN Consensus Model will be challenged by this issue so M Cahill/NCSBN will take this issue to LACE meeting in early October
3. State Boards asked if aware of “Nurse Anesthesiologists” title for CRNAs – 5 states said yes
 - Driver behind this is that anesthetist assistants use “anesthetist” title and is confusing
 4. Task Force is being created on APRN Compact
 - Main issue: states with transition to practice [*includes Virginia*]

NP Licensing Report – Ms. Willinger reported the following:

- **Development of attestation forms and process** – attestation process will be similar to current process for nurse practitioners to add a specialty and treated as an application that will be submitted as a paper application. Draft attestation form (application) has been circulated internally and was drafted to be consistent with the law and proposed emergency regulations.
- **Data clean up** – data cleanup for nurse practitioner license/education information activities completed by summer intern. The purpose of this project is to get the nurse practitioner license data ready to upload to NURSUS available via “Quick Confirm”. There are 26 states currently uploading APRN license data through NURSUS quick confirm.
- **Certification availability in NURSUS** – Board staff have worked with IT staff to create a place in the Nursing licensing system to accurately record nurse practitioner national certification information to include certifying agency, certification number, expiration date and one place to record license (specialty) categories. New drop down features to record certification and specialty information will prepare accurate data for future inclusion in NURSUS for APRNs.

Ms. Hershkowitz requested Board staff to provide the draft application for autonomous practice for review by the Committee of the Joint Boards of Nursing and Medicine at a future meeting. Ms. Douglas emphasized that the Joint Boards role is not to approve application content; however, feedback from the Committee of the Joint Boards and the Advisory Members would be appreciated once the form has been in use for a few months.

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Committee of the Joint Boards of Nursing and Medicine – Business Meeting
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RECESS: The Board recessed at 11:05 AM

The Advisory Committee Members left the meeting at 11:05 A.M.

RECONVENTION: The Board reconvened at 11:20 A.M.

Agency Subordinate Recommendations Consideration

Judith Tapsell Thompson Gore, LNP 0024-047673
Prescriptive Authority 0017-136820

Michael Goodman, Esquire, appeared on behalf of Ms. Gore.

CLOSED MEETING: Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:26 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Gore. Additionally, Dr. Hahn moved that Ms. Douglas, Dr. Hills, Ms. Willinger, Ms. Vu and Ms. Barrett, Board counsel, 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 Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 11:34 A.M.

Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine 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.

Dr. O'Connor moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to indefinitely suspend the license of Judith Tapsell Thompson Gore to practice as a nurse practitioner and her authorization to prescribe in the Commonwealth of Virginia for a period of not less than one year from the date of entry of the Order. The motion was seconded and carried unanimously.

Ms. Gerardo and Dr. Hills left the meeting at 11:35 A.M.

Ann Alexandrer Leggett, LNP 0024-170036
Prescriptive Authority 0017-141424

Ms. Leggett appeared and was accompanied by Gerald Canaan, II, Esquire.

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CLOSED MEETING: Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:36 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Leggett. Additionally, Dr. Hahn moved that Ms. Douglas, Ms. Willinger, Ms. Vu and Ms. Barrett, Board counsel, 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 Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 11:47 A.M.

Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine 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.

Dr. O'Connor moved that the Committee of the Joint Boards of Nursing and Medicine modify the recommended decision of the agency subordinate to reprimand Ann Alexander Leggett, to require Ms. Leggett to complete 12 hours of face-to-face Board approved continuing education/CME on prescribing within six months from the date of entry of the Order, and to provide evidence of review of current regulations regarding prescriptive authority and prescribing of opioids. The motion was seconded and carried unanimously.

Ms. Gerardo rejoined the meeting at 11:55 A.M.

Lea E. Lineberry, LNP	0024-170356
Prescriptive Authority	0017-141075

Ms. Lineberry did not appear.

CLOSED MEETING: Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:56 A.M., for the purpose of consideration of the agency subordinate recommendation regarding Ms. Lineberry. Additionally, Dr. Hahn moved that Ms. Douglas, Ms. Willinger, Ms. Vu and Ms. Barrett, Board counsel, 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 Committee of the Joint Boards of Nursing and Medicine reconvened in open session at 12:10 P.M.

Dr. Hahn moved that the Committee of the Joint Boards of Nursing and Medicine 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. Gerardo moved that the Committee of the Joint Boards of Nursing and Medicine modify the recommended decision of the agency subordinate to place Lea E. Lineberry on probation for not less than one year with terms to include:

- Ms. Lineberry ensures that the collaborating physician review 10 randomly selected patient records per quarter and provides a report to the Boards;
- Ms. Lineberry completes 12 hours face-to-face continuing education/CME on the management of common pediatric condition and 6 hours of face-to-face continuing education/CME on documentation;
- Ms. Lineberry provides self-reports; and
- Ms. Lineberry provides collaborating physician and employer with a copy of the Board Order

The motion was seconded and carried unanimously.

Consent Order Consideration

Anya Williams Howard, LNP
Prescriptive Authority

0024-167523
0017-138951

Dr. Hahn moved to accept the consent order to indefinitely suspend the license of Anya Williams Howard to practice as a nurse practitioner and authorization to prescribe in the Commonwealth of Virginia from the date of entry of the Order. The suspension is stayed contingent upon Ms. Howard's continued compliance with all terms and conditions of the Health Practitioners' Monitoring Program (HPMP) for the period specified by the HPMP. The motion was seconded and carried unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 12:14 P.M.

Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director