

VIRGINIA BOARD OF NURSING
MINUTES
May 21, 2019

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on May 21, 2019, in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Louise Hershkowitz, CRNA, MSHA; President

BOARD MEMBERS PRESENT:
Jennifer Phelps, BS, LPN, QMHPA; First Vice President
Marie Gerardo, MS, RN, ANP-BC; Second Vice President
Laura Freeman Cei BS, LPN, CCRP
Margaret J. Friedenberg, Citizen Member
Ann Tucker Gleason, PhD, Citizen Member
James L. Hermansen-Parker, MSN, RN, PCCN-K
Dixie L. McElfresh, LPN
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Meenakshi Shah, BA, RN

MEMBERS ABSENT: Joyce A. Hahn, PhD, RN, NEA-BC, FNAP, FAAN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Cynthia M. Swineford, MSN, RN, CNE

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Jodi P. Power, RN, JD; Senior Deputy Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Education
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Jacquelyn Wilmoth, RN, MSN, Nursing Education Program Manager
Stephanie Willinger; Deputy Executive Director for Licensing
Patricia L. Dewey, RN, BSN; Discipline Case Manager
Lelia Claire Morris, RN, LNHA; Discipline Case Manager
Ann Tiller, Compliance Manager
Nancy New, MSN, RN; Probable Cause Reviewer
Huong Vu, Executive Assistant

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General, Board Counsel
David E. Brown, DO, Department of Health Professions Director
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy

IN THE AUDIENCE: Jerry J. Gentile, Department of Planning Budget (DPB)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Cynthia Ward, Virginia Association of Nurse Specialists (VaCNS)
Monica Coles, VaCNS
Becky Bowers-Lanier, VaCNS
Catherine Smith, VaCNS
Linda Thurby-Hay, VaCNS
Kathy Martin, Hancock, Daniel & Johnson, P.C.

ESTABLISHMENT OF A QUORUM:

Ms. Hershkowitz asked Board Members and Staff to introduce themselves. With 11 members present, a quorum was established.

ANNOUNCEMENTS:

Ms. Hershkowitz highlighted the announcements on the agenda.

- Welcome New Board Members
 - James L. Hermansen-Parker, MSN, RN, PCCN-K, Nurse Specialist with Sentara Norfolk General Hospital – Mr. Hermansen-Parker provided his background information.
 - Cynthia M. Swineford, MSN, RN, CNE of Disputanta, Vice President, Southside College of Health Sciences – Ms. Hershkowitz noted that Ms. Swineford is unable to attend the May meeting
- BON Staff Recognized for Years of State Services
 - 5 Years of Service – Nichole Clements, Joseph Corley and Sylvia Tamayo-Suijk
 - 10 Years of Service – Robin Hills and Huong Vu
 - 15 Years of Service – Arlene Johnson
 - 25 Years of Service – Ann Tiller and Stephanie Willinger
- Staff Update:
 - Joan Green, temporary employee, started the CNA Licensing position on April 8, 2019
 - Lauren Lawrence, temporary employee, started the CNA/RMA/LMT Discipline Specialist position on April 15, 2019
 - Francine Greer, former employee, started the P-14 CNA Licensing position on April 29, 2019
 - Nancy New started the RN P-14 Probable Cause Reviewer position on April 29, 2019
 - Meredith Rose, former intern, started the P-14 Discipline Specialist position on May 1, 2019

UPCOMING MEETINGS: The upcoming meetings listed on the agenda:

- The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for Wednesday, June 12, 2019 at 9:00 am in Board Room 2
- NCSBN Executive Officer is scheduled for June 18-19, 2019 in Newport, RI – Ms. Douglas will attend as a member of the NCSBN Board of Directors for Area III
- NCSBN Annual Meeting is scheduled for August 21 – 23, 2019 in Chicago, IL – interested Board Members please inform Ms. Hershkowitz or Ms. Douglas

- DHP Board Member all day Training is scheduled from Monday, October 7, 2019. More detailed information will be provided when available
- **REMINDER – JULY BOARD WEEK IS TWO DAYS & FORMAL HEARINGS ONLY, TUESDAY, 7/16 (2 PANELS), AND WEDNESDAY, 7/17 (2 PANELS). NO BUSINESS MEETING**

ORDERING OF AGENDA: Ms. Hershkowitz asked staff to provide additions and/or modifications to the Agenda.

Ms. Douglas stated that two additional documents were provided at place today:

- **D3** Revenue, Expenditures, & Cash Balance Analysis
- **Consent Order – G5** Sheila G. Fortner, LPN

Ms. Douglas said that the Board will consider possible summary suspension today at 3 pm regarding a licensed massage therapist and a certified nurse aide cases.

Ms. Douglas noted that Thursday Formal Hearings have been cancelled due to Board member's emergency resulting in lack of a quorum. Ms. Douglas added that staff will poll Board members to reschedule the hearings either late June or early July.

Ms. Ridout stated that the formal hearing of Jarrett Herron, LMT on Wednesday, Panel A, has been continued.

CONSENT AGENDA: The Board did not remove any items from the consent agenda.

Mr. Monson moved to accept the consent agenda as presented. The motion was seconded and carried unanimously.

Consent Agenda

- B1** March 18, 2019 Board of Nursing Officer Meeting – Ms. Hershkowitz
- B2** March 18, 2019 Panel – Ms. Phelps
- B3** March 19, 2019 Board of Nursing Business Meeting – Ms. Hershkowitz
- B4** March 20, 2019 Consideration of a Consent Order – Ms. Hershkowitz
- B5** March 20, 2019 Panel B – Ms. Gerardo
- B6** March 21, 2019 Panel – Ms. Hershkowitz
- B7** April 4, 2019 Telephone Conference Call – Ms. Hershkowitz
- B8** April 17, 2019 Telephone Conference Call – Ms. Hershkowitz
- C1** Agency Subordinate Tracking Log
- C2** Financial Report as of March 31, 2019

- C3** Board of Nursing Monthly Tracking Log
- C4** Health Practitioners' Monitoring Program Quarterly Report
- C5** The Committee of the Joint Boards of Nursing and Medicine April 10, 2019 Formal Hearing Minutes – Ms. Gerardo

**DIALOGUE WITH DHP
DIRECTOR:**

Dr. Brown welcomed the new Board member, Mr. Hermansen-Parker, and stated that Board members are here to serve the interests of the public, rather than the interest of their profession. Dr. Brown then reported the following: **New Website** – DHP rolled out the new website with Board of Nursing website as a template for other Boards. It is more user friendly.

Pharmaceutical Processor Program - more information will be provide by Caroline Juran, Board of Pharmacy Executive Director, later on in the Agenda.

DHP work for Bills that were not passed –

- ❖ HB1970 Telemedicine –a workgroup which will convene in the Fall of 2019 to review current standards and what identified needs are.
- ❖ DHP is to look at barriers to practice for foreign trained practitioners. A workgroup will be convened and will look at how Board of Medicine and Board of Nursing process the applications for licensure of foreign trained practitioners.

Ms. Hershkowitz commented on the new website noting that it is more modern and easier to navigate. Ms. Hershkowitz thanked the Agency and Board staff for their work on this.

Ms. Minton added that through DHP, Board of Health Professions plans to implement social media as a mechanism to share information about RN to BSN Education information. She also reported a workgroup on Activities Therapy is to be convened.

Ms. Douglas stated that revision of the Sanction Reference Points Manual will begin in 2020.

Ms. Power commented that she is happy to hear about social media which was highlighted at the NCSBN Midyear meeting. She added that DHP may be behind in that area but it is a helpful means to connect with the public.

REPORTS:

C6 Executive Director Report:

Ms. Douglas highlighted her written report and added:

- **Disciplinary Case Load** – continuing with plan to increase number of probable cause reviewers and recruiting for Agency Subordinates since current P-14 staff have decreased time/availability.
- **NCSBN Board of Directors May 2019 Meeting Update:**

- Report about the “Nursing Education Outcomes and Metrics Committee,” which provides information about success and risk factors for education programs, indicates success
- Next Generation NCLEX information will be rolled out to inform faculty and students
- Looking at regulatory issues related to Certified Nurse Aides
- Discussed eNotify system
- **Nurse Licensure Compact (NLC) Commission**
 - Meets monthly via telephone and twice a year face-to-face
 - Met on March 25, 2019, the day before NCSBN Midyear meeting
 - Topics discussed regarding licensure of nurses from Puerto Rico who did not use NCLEX exam and were educated in Spanish. NLC Uniform Licensure requirements include credentials review and English proficient exam if education was not in English. The outcome was that this is an issue for all Boards of Nursing and so the matter was referred to the NCSBN Board of Directors.
- **FOIA Request** – from Niskanen Center in Washington, DC related to nursing licenses issued by year since 2000 with the focus being the NLC. They are looking at portability issue and other professions embarking in the Compact.

NCSBN Midyear Meeting March 26-28, 2019 Report

C7a Ms. Phelps’ report – Ms. Phelps stated that it was very educational meeting where she learned about other states’ works. She encouraged Board members to participate in the NCSBN meetings. She added that NCSBN is a very impressive body of work; she is proud to represent the Board and being a nurse in Virginia. She noted that attending the meeting was a valuable way for networking.

C7b Ms. Power’s report – Ms. Power thanked the Board for the opportunity to attend the meeting. She noted that NCSBN is a very innovative organization which has many researches in place that will help regulatory process.

Ms. Power highlighted the new NCSBN CE Course list which will be provided to Board Members.

Ms. Douglas added that Global Leadership Academy for Regulatory Excellence (GLARE) will be presented at the NCSBN Annual meeting in August 2019. Ms. Hershkowitz reminded Board Members who are interested in attending the meeting to let her know as soon as possible. Ms.

Hershkowitz added that the Board can send two Board Members and two Staff to the meeting.

**2019 NCSBN APRN Roundtable and APRN Consensus Forum Meetings
April 9-10, 2019 Reports:**

Ms. Hershkowitz noted that the report was provided in Ms. Douglas' written Executive Director report and she had nothing to add.

Ms. Hershkowitz indicated that the meeting was not as beneficial as it could have been as participants at the APRN Consensus Forum were airing local issues instead of focusing on big picture.

OTHER MATTERS:

Board Counsel Update:

Ms. Mitchell reported that she is in process of drafting the argument for the appeal case which is scheduled in the Fall. She reminded the Board that this is case regarding a registered nurse who was educated and licensed in Korea and applying for a practical nurse license in Virginia without taking the NCLEX exam.

Board Member Survey Update:

Ms. Hershkowitz deferred this matter to the next meeting because staff have not received all the surveys from Board Members. She reminded Board Members to submit the survey for consideration.

D1 Review of Guidance Document (GD) 90-60: Virginia Board of Nursing Code of Conduct

Ms. Hershkowitz stated that Officers has reviewed and present this revised version for consideration. Ms. Hershkowitz added that the goal is to inform new Board members/public what to expect if serve as Board member.

Ms. Douglas added that revision comes about because the Board is going through a periodic review. Ms. Douglas added that once the GD is adopted by the Board, it will be posted for public comment.

After review and discussion, the Board made the following amendments:
Mr. Monson moved to replace the word "**shall**" with "**will**". The motion was seconded and carried unanimously.

Mr. Monson moved to added "**and Orders**" to # 16 after "to the Board minutes" The motion was seconded and carried unanimously.

Mr. Monson moved to adopt the revised GD 90-60 with additional amendments. The motion was seconded and carried unanimously.

D2 Informal Conference Schedule from July through December 2019:

Ms. Power spoke to the schedule of the second half of 2019 noting that all SCCs got first or second choices and less Agency Subordinate Informal Conference scheduled this time. She added that this might change as new Board member appointed and new Agency Subordinates hired.

RECESS: The Board recessed at 9:57 A.M.

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

PUBLIC COMMENT: Janet Wall, Chief Executive Officer (CEO) of the Virginia Nurses Association (VNA), provided the following:

- The Virginia Nurses Foundation (VNF) received an RWJF Innovations Fund grant that will enable VNA to advance the work in the area of mental health. The grant will help support the VNA/VNF fall conference, *Mind Matters: Improving Mental Healthcare Delivery Across Settings*, which will be held September 20-21 at the Hilton Richmond Hotel & Spa/Short Pump. The grant also enables VNA to provide 12 full registration conference scholarships, which will be divided evenly between RNs employed by schools and those working for Community Service Boards. The grant monies will also provide for training of one nurse in the Mental Health First Aide, Youth Module Instructor Training; three subsequent Mental Health First Aide, Youth Module training programs; and a program intended to raise awareness and reduce stigma at eight pilot K-12 schools in economically disadvantaged areas.
- VNF hopes to launch its Nurse Leadership Academy (NLA) next spring. NLA will be a year-long program, with six months of education followed by development of a leadership project, and is intended for nurse managers and emerging nurse leaders. Ms. Douglas, along with a number of Chief Nurse Officers (CNOs)/Chief Nurse Executives (CNEs) from throughout the Commonwealth, plus representatives of long-term care and public health nursing serve on the Steering Committee and have developed an impressive curriculum.
- The next meeting of the Mental Health Roundtable will be held on July 9, 2019 at a Richmond location to be determined. Virginia Department of Health (VDH) Deputy Secretary Figueroa is slated to speak. Participants include nurses as well as behavioral health professionals.
- The Annual Gala will be held in the evening of the September 21 VNA/VNF fall conference. Dozens of nurses will be recognized with our Leadership Excellence Awards.
- One of the outcomes of VNA's/VNF's recent joint Strategic Planning Retreat is the development of a Diversity & Inclusion Council. VNA/VNF are currently surveying nurses to help establishing the

priorities of the Council, and anticipating the first meeting being held via conference call in July 2019.

- SYNC, the interprofessional leadership program VNF hosts in partnership with Virginia Hospital and Health Care Association (VHHA), Medical Society of Virginia (MSV), and VDH recently launched its fifth cohort.
- Director of the Healthcare Workforce Data Center, Dr. Elizabeth Carter, recently presented a VNA webinar on Forecasting RN Supply & Demand, to offer clarity to CNOs/CNEs about the various research and forecasting information available.
- Leadership of the Mental Health Roundtable's Stigma Workgroup recently spoke with Jay Douglas about the Healthcare Practitioners Monitoring Program, and agreed that nurses would benefit from more information about the program. A related article is being planned for an upcoming issue of *Virginia Nurses Today*, which is distributed to all 109,000 nurses in the commonwealth.

OTHER MATTERS (cont.): **D3 Revenue, Expenditures & Cash Balance Analysis**

Ms. Douglas stated that this is provided as information only, no action needed.

POLICY FORUM:

Caroline Juran, Board of Pharmacy Executive Director, provided a PowerPoint presentation titled "*Pharmaceutical Processor Update*". Copy of the presentation was included in the Agenda package.

EDUCATION:

E1 Education Informal Conference Committee May 9, 2019 Minutes and Recommendations:

Ms. Minton highlighted the recommendations in the minutes.

Ms. Minton moved to accept the Education Informal Conference Committee May 9, 2019 minutes and recommendations as presented. The motion was seconded and carried unanimously.

Ms. Ridout recommended the establishment of a Committee to review and revise Registered Medication Aide Curriculum that has not updated since 2013. Ms. Hershkowitz requested Board Members to let her know of interest and the Committee will need to have three Board Members.

Education Staff Report:

Dr. Hills noted fairly smooth transition thanks to Dr. Saxby extending her retirement for one month.

Ms. Hershkowitz reminded Board Members who are interested in Education Informal Conference Committee work to let Dr. Hills know.

LEGISLATION/
REGULATION:

Ms. Douglas reported the following in the absence of Ms. Yeatts:

F1 Status of Regulatory Action:

Ms. Douglas reviewed the chart of regulatory actions provided in the agenda.

F2 Regulatory/Policy Action – 2019 General Assembly:

Ms. Douglas reviewed 2019 General Assembly report provided in the agenda noting HB1848 would involve Board of Nursing and Enforcement.

F3 Consideration of the Petition for Rule-Making from Virginia Association of Clinical Nurse Specialists (VaCNS):

Ms. Douglas reviewed the package including background information regarding Regulation and Scope of CNS Practice Nationally and in Virginia prepared by Board staff.

Ms. Douglas noted that 70 comments received and summarized that all comments are in support of the petition as follow:

- Current law and regulations in Virginia are not consistent with other states
- No prescriptive authority
- No full practice authority
- Care access restricted by current regulations
- Acceptance of grandfathered clause for retired certification

Ms. Douglas said that for today the Board will need to discuss whether to initiate a Notice of Intended Regulatory Action (NOIRA) or to reject the petition's request and stating reasons for denying the petition.

Ms. Douglas stated that the proposed sections regarding provisional registration, endorsement and the inclusion of NACNS Core Competencies was not consistent with the current Code of Virginia. Ms. Douglas added that the portion of the proposed new section on reinstatement that references accepting evidence of registration from another jurisdiction would be contrary to the current Code also.

Mr. Monson moved to initiate rulemaking by publication of a NOIRA for sections that are consistent with the Code of Virginia. The motion was seconded and carried unanimously.

Ms. Douglas stated that it is up to the Petitioner to pursue legislative changes outside the Board control if they so desired.

Ms. Hershkowitz noted that volunteers may be needed in the future for the work on this matter.

Dr. Allison-Bryan left the meeting at 11:27 A.M.

CONSIDERATION OF CONSENT ORDERS:

CLOSED MEETING: Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 11:27 A.M. for the purpose of considering the Request for Accommodation and Consent Orders. Additionally, Ms. Gerardo moved that Ms. Douglas, Dr. Hills, Ms. Wilmoth, Ms. Power, Ms. Ridout, Ms. Willinger, Ms. Morris, Ms. Dewey, Ms. Tiller, Ms. Vu, 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 11:45 A.M.
Mr. Monson 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.

G1 Request for Accommodation NCLEX-PN

Mr. Monson moved to deny the accommodation request for reader for NCLEX-PN of Alicia Birchfield. The motion was seconded and carried unanimously.

G2 Jennifer Lawson, RN 0001-266216

Ms. Minton moved to accept the consent order to suspend the license of Jennifer Lawson to practice professional nursing in the Commonwealth of Virginia; the suspension is stayed upon proof of Ms. Lawson's entry into a Contract with the Health Practitioners' Monitoring Program (HPMP) or her entry into an alternative program in another state deemed by the Board to be substantially equivalent to the HPMP and remaining compliance with all terms and conditions of the HPMP or the alternative program for the period specified by the HPMP or the alternative program. The motion was seconded and carried unanimously.

G3 Douglas Jay Donovan, RN 0001-179251

Ms. Minton moved to accept the consent order for voluntary surrender for indefinite suspension of Douglas Jay Donovan's right to renew his license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

G4 Stacey Michelle Rexrode, LPN 0002-049325

Ms. Minton moved to accept the consent order to reprimand Stacey Michelle Rexrode and to indefinitely suspend her license to practice practical nursing in the Commonwealth of Virginia. The suspension is stayed upon proof of Ms. Rexrode's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) and remain in compliance with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was seconded and carried unanimously.

G5 Sheilah Fortner, LPN 0002-023929

Ms. Minton moved to accept the consent order for voluntary surrender for indefinite suspension of Sheilah G. Fortner's license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Mr. Monson proposed the Board consider limiting the number of times candidates can take the NCLEX exam. Ms. Hershkowitz indicated that this will be referred to the Education Informal Conference Committee.

Ms. Hershkowitz said that this may be Ms. Minton's last board meeting because she is not eligible for reappointment. Ms. Minton thanked Board members and staff for the honor and privilege to serve on the Board.

RECESS: The Board recessed at 11:50 A.M.

RECONVENTION: The Board reconvened at 1:00 P.M.

Ms. Hershkowitz noted that probable cause case review planned today will be postponed.

Discussion regarding the differences between NCSBN Annual and Midyear meetings occurred to assist Board members in decisions to attend. It was pointed out that videos of past meetings are available to view from NCSBN website. Board members were asked to send Ms. Tiller an email requesting access to NCSBN website if they do not already have it.

**BOARD MEMBER
TRAINING:**

Addiction and Mental Illness by Debra Jefferson, BS, CSAC, NACA1, QMHP-A, QMHP-C, CIT Coordinator/CIT Assessment Center Coordinator

Ms. Phelps introduced Ms. Jefferson to the Board. Ms. Jefferson thanked the Board for the opportunity to speak about addiction and mental illness. Ms. Jefferson provided the following:

- CIT stands for Crisis Intervention Team which was started in 1988 in Memphis, TN and founded by Major Sam Cochran

- CIT provides 40 hours core training to first responders such as EMS, Police, dispatchers, and ER personnel
- ECO stands for Emergency Custody Order which is the first process to get an individual to come in for an evaluation. ECO can be initiated by anyone in the community. It will take 8 hours to do evaluation in the hospital
- TDO stands for Temporary Detention Order which is the ending process when deemed need inpatient treatment and patient is unwilling/incapable of giving consent or making a decision
- CIT provides a continuing of care by connecting individual with case manager and therapist since relapse occurs when individual stops taking medication.
- “Peer” Recovery Specialists - must be in recovery for two years to be eligible
- Community Service Boards and costs – Medicaid expansion has helped

Ms. Jefferson noted that CIT provides a free 8 hours training called “*Mental Health First Aide*” which might be helpful to all DHP staff.

Ms. Hershkowitz thanked Ms. Jefferson for the information.

Dr. Gleason left the meeting at 2:35 P.M.

RECESS: The Board recessed at 2:45 P.M.

RECONVENTION: The Board reconvened at 3:00 P.M.

POSSIBLE SUMMARY SUSPENSION CONSIDERATION: The minutes for this section of the meeting were prepared separately.

ADJOURNMENT: The Board adjourned at 3:57 P.M.

Louise Hershkowitz, CRNA, MSHA
President