

**VIRGINIA BOARD OF NURSING
MINUTES
July 19, 2011**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:08 A.M. on July 19, 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
Louise Hartz, Citizen Member
John M. Horn, L.P.N.
Jane R. Ingalls, R.N., C.N.S. Ph.D
Florence Jones-Clarke, R.N., M.S.
Patricia C. Lane, R.N., B.S.N., M.B.A
Trula E. Minton, M.S., R.N.
Karen K. Schultz, Ph.D., M.B.A, Citizen Member
William Traynham, L.P.N.

BOARD MEMBERS ABSENT:

Allison Gregory, R.N., F.N.P.
Jeanne E. Holmes, Citizen Member

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
Tonya James, Compliance Case Manager

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
Elaine Yeatts, Policy Analyst, Department of Health Professions
Paul Lindamood, CEO, NCBTMB
Alexa Zaledonis, Chair of the NCBTMB Board
Dawn Hogue, NCBTMB State Board Liaison
Representatives from Excelsior College
Representatives from Bryant and Stratton College
Nursing students from Fortis College

ESTABLISHMENT OF
A QUORUM:

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

ANNOUNCEMENTS:

- New Board members, Dr. Ingalls and Ms. Minton were introduced. Board members and staff introduced themselves.
- NCSBN Delegate Assembly/Annual Meeting, Virginia Board of Nursing will receive the NCSBN 2011 Regulatory Achievement Award. August 3 – 5, 2011 Indianapolis, IN – Dr. Selig, Ms. Jones-Clark, Ms. Lane, Ms. Douglas, Ms. Krohn and Ms. Mitchell will attend. NCSNB will cover expenses for Board members and staff to attend.
- Committee of the Joint Boards of Nursing and Medicine next meeting is October 12, 2011.
- Virginia Nurses Foundation Gala, Saturday, September 24, 2011, Richmond – Dr. Cane, Honorary Chairperson
- VNA Education Day – September 24, 2011 – Dr. Linda Burns Bolton, Keynote Speaker
- Recognition of Service for Ms. Francisco and Ms. Piersall, 12:00 p.m. July 19 Board room 1
- Black Nurses Association 40th Anniversary information was provided by Ms. Lane.
- Department of Health Professions Board member orientation is scheduled for September 23, 2011.
- New Massage Therapy Advisory Board members have been appointed, Kristine Wright, CMT and Michael Vines, CMT replacing Amenaua Foy and Lucia Kaestner.

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:

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|--------------|---------------------------|
| May 16, 2011 | Panel – Dr. Selig |
| May 17, 2011 | Board Meeting – Dr. Selig |
| May 18, 2011 | Quorum – Ms. Lindsay |
| May 18, 2011 | Panel – Dr. Hahn |
| May 18, 2011 | Panel – Ms. Lindsay |
| May 19, 2011 | Panel – Dr. Selig |

Reports:

Health Practitioners Monitoring Program Report of Statistics
Agency Subordinate Tracking Log
Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics

Ms. Hartz moved to accept the minutes of July 8, 2011. The motion was seconded and carried unanimously.

REPORTS:

Executive Director Report:

In addition the written report, Ms. Douglas added the following information:

- Budget proposal has been submitted to DHP Director's office. The budget was based on the FY10 actual budget; supplemental requests were submitted for additional budget requests.
- Fee increases were effective July 6, 2011. The Board continues to have a budget deficit and will have to continue to reassess impact of new fees.
- A briefing on Board key initiatives and status was provided to Dr. Cane last week as part of a briefing of the past year since Dr. Cane became director. Parts of the presentation were included in the Board member orientation for Ms. Ingalls and Ms. Minton. Revisions will be made and presented to the Board at the September 2011 meeting.
- Board staff continue to receive a high volume of applications for licensure by exam and endorsement for RN and LPN using the online system that went into effect in May 2011. Positive feedback has been received from applicants regarding the online process.

Mr. Horn inquired about the U.S. Department of Education Conference Call on May 19, 2011 in the written report. Dr. Saxby clarified the Virginia Board of Nursing was unaware of Maryland Department of Education as a required entity to seek approval before Virginia schools can use Maryland sites as clinicals.

TERCAP Report:

Ms. Mitchell provided an overview of TERCAP program. 41 cases have been submitted over one and one-half years since Virginia's participation began. A conference call was held June 24, 2011 to discuss implantation of the new data tool. Ms. Mitchell discussed possible expansion of TERCAP in Virginia by training additional investigators. Currently only 2 DHP investigators participate in the program. A written report was submitted.

NCSBN NLC and Consumer Conference:

Ms. Power provided an overview of the conference held in Chicago June 8-9, 2011. Ms. Power and Ms. Kleiner attended the conference, travel expenses were funded by NCSBN. Conference topics regarding the Compact included lessons learned from complaint investigation and disciplinary actions taken in Compact states, a look at Compact realities ten years later, legislative challenges and strategies regarding criminal background check legislation for various board structures, and a review of compact related case law. Conference topics related to Consumers included the current state of consumer protection, the reason discipline and accountability are important to consumers,

the needs of consumers, state board website exemplars, and the important role of performance measurement in the public sector.

Notably, during a conference presentation, Virginia was highlighted as outstanding in its consistent communication with other Compact states regarding multistate disciplinary cases and issues. Specifically, it was highlighted that Virginia's designation of one primary contact person for Compact case communication worked extremely well and that Ann Tiller's timely and reliable responses were very helpful to other Compact states. Additionally, the method used by Virginia for tracking disciplinary investigation cases and actions on privileges to practice was cited as a state exemplar, with specific accolades to Ann Tiller for her work in this area. Ms. Tiller may be asked to present to the Compact Administrator's group in the future regarding how she tracks these cases, as a best practice.

Virginia Performs Report:

Ms. Douglas reviewed the 4th quarter report and stated she is pleased in the progress being made by the Board of Nursing. Clearance rate is 118%, only 13% of the pending caseload is over 250 days old and 93% of cases were closed within 250 days. Some cases are over 250 days old when received in the Board from Enforcement, staff from Nursing and Enforcement are working on resolving this. Progress with improving case resolution time was a factor in the Virginia Board of Nursing receiving the NCSBN Regulatory Achievement Award for 2011.

NCSBN Attorney/Investigator Conference:

Ms. James provided a verbal and written overview of the conference held May 24 – 26, 2011 in Chicago. Travel expenses were funded by NCSBN. The information obtained from the conference was helpful. Ms. James also stated she is monitoring 120 cases plus 3 nursing education programs at this time.

Ms. Douglas added that Ms. James and Ms. Tiller are used a resource for other boards of nursing regarding compliance matters.

Board Efficiency Committee:

Dr. Schultz thanked Board members for responding to the survey which formed the basis for the recommendations being developed. Ms. Lane stated the top recommendations which include:

- Staying on task with a timekeeper
- Rotating Committee assignments/chair roles
- Have a report from the Board Efficiency Committee at each Board meeting

Following clarification of recommendations being put forward to the Board, Ms. Hartz moved to adopt recommendation #8 to have agency efficiency measures addressed at each Board meeting. The motion was seconded and carried unanimously.

The Committee will meet again to flesh-out other recommendations. Ms. Lane and Dr. Schultz will coordinate a meeting date with staff.

Board of Health Professions:

Ms. Lane reported on the BHP proposal to move from at least quarterly meetings to at least annual meeting with additional meetings as needed which would require a legislative change to §54.1-2508. The issue related to costs and at times a lack of need to meet. BHP is the only board at DHP that requires in law to meet quarterly. A motion to support the legislative change was made by Ms. Lane. The motion was seconded and carried unanimously.

DIALOGUE WITH AGENCY DIRECTOR:

Dr. Cane reported that the Department of Health Professions will receive the CLEAR Excellence Award in September 2011 based upon use of Sanction Reference Point Program.

RECESS:

The Board recessed at 10:10 a.m.

RECONVENTION:

The Board reconvened at 10:22 a.m.

EDUCATION:

Pending Consent Orders for Nursing Education Programs:

Ms. Douglas provided an update on the 4 nursing education programs that the Board voted to offer a consent order to withdraw approval, but stay the withdrawal and remain on conditional approval with terms. New Horizons has notified the Board they plan to close their program by a letter received today. Southwest Community College has accepted and signed the consent order offered. No information has been received from Richmond School of Health and Technology and Hampton University to date.

Education Special Conference Committee:

Dr. Hahn reviewed the minutes of July 12, 2011. Mr. Traynham moved to accept the minutes as submitted. The motion was seconded and carried unanimously. Ms. Douglas stated Dr. Younger attended the Education Special Conference Committee to observe the processes in order to make recommendations regarding efficiencies. Dr. Saxby thanked Dr. Hahn for serving as chair of the committee for the first time.

Education Issues:

Ms. Dowling provided information regarding nursing education that included the following:

- Seven new programs are awaiting review, 3 are practical nursing programs in northern Virginia and 1 in Midlothian.
- NCLEX pass rate information shows 91.52% for RN in Virginia, the national average is 90.51. Eight RN programs are below 80%; 2 BSN programs, 4 ADN programs, and 2 Diploma programs. The PN pass rate for Virginia is 70.63%, the national average is 85.15%. 21 PN programs are below 80%; 10 for profit programs, 6 community college programs, and 5 high school programs.

Excelsior College Visit:

Dr. Paula Saxby provided a verbal overview, in addition to her written report provided, regarding her visit to Excelsior College in May, 2011. During her visit to Excelsior, Dr. Saxby met with the Dean, President, Nursing Administration and faculty, and counsel for Excelsior College and observed the CPNE (Clinical Performance in Nursing Examination) process at Albany Medical Center. She stated Excelsior's philosophy of education does not support an apprenticeship model for competency in contrast to the traditional education model for nursing that the Virginia Board of Nursing and NCSBN endorse. The Excelsior program is aimed at adult learners who learn at their own pace and supports "life long learning". The program is self-paced and students may take up to 7 years to complete the requirements for graduation. Admission requirements include the following: LPN, Paramedic, some classifications of Military corpsmen, or an individual who holds a degree in a clinically oriented health care field. Excelsior no longer admits EMT's or RN students that have completed 50% of their RN program due to low performance on the Excelsior's competency exams.

The Excelsior program is a competency-based, evaluation program that does not offer any course work or instruction. They have resources available if students avail themselves of the opportunities, but there are no requirements for the students to use these resources. The Associate Degree program in nursing has 31 credits of general education requirements and 36 credits of nursing requirements. There are 8 nursing theory exams that can be taken in any order, and students have 4 opportunities to pass each exam. Then, the students must pass 3 focused clinical competency assessments (computer simulation), and then the student must take and pass the CPNE which is the culminating capstone event at a hospital test site (a 2 and a half day exam). This exam can be taken 3 times and the first time pass rate is approximately 62-65% in 2009 and 2010.

Laurie Nagelsmith from Excelsior College was present and answered further questions from Board members related to the program. Currently, 37 states allow Excelsior students to be licensed without additional requirements; only 2 States (Maryland and California) do not allow Excelsior students to be licensed. Other states allow licensure in some way with additional requirements. Excelsior representatives agreed to supply data regarding other states for the Licensure Committee to consider at its meeting scheduled for July 20, 2011.

2010 Healthcare Workforce Data Center (HCWFDC) Survey of Nursing Education Programs:

The report developed by the HCWFDC is not ready for publication. Dr. Saxby expects the report should be finalized within the next two weeks. It will be posted on the DHP website when available.

OPEN FORUM:

National Certification Board of Therapeutic Massage and Bodywork:

Paul Lindamood, CEO, Alexa Zaledonis, Chair of the NCBTMB Board and Dawn Hogue, State Board Liaison were present and spoke to the Board regarding the NCBTMB. Information that included the NCBTMB has a 20 year history and that their exam is accepted in 38 states. There are 87,000

nationally certified practitioners, 5,000 in Virginia. A review of the exam types, eligibility, program compliance, and continuing education programs was provided. A national certification advanced practice exam (NCAP) is being developed.

LEGISLATION/REGULATION:

Chart of Regulatory Actions:

Ms. Yeatts reviewed the chart of regulatory actions.

- Regulations regarding continued competency requirements is at the Governor's Office
- Requirements for approval of nursing education programs is at the Department of Planning and Budget
- Consistency with Compact rules on licensure is at the Governor's Office
- Elimination of prior licensure requirement for foreign educated applicants is at the Governor's Office
- Increase in Fees has been finalized and went into effect July 6, 2011.

Draft Amendment to Disciplinary Provisions:

Ms. Yeatts reviewed the draft amendment regarding failing to report evidence of child abuse or neglect or elder abuse or neglect. Ms. Hartz moved to adopt and make it a fast track action based on consistency with law §63.2-1509 and 63.2-1606.

Consideration of Public Comment on Legislative Proposals:

Public comment that was received on four legislative proposals was considered by the Board.

- Recovery of disciplinary costs for investigating and monitoring nurses practicing on a multistate privilege in Virginia. Mr. Casway suggested adding failure to recover disciplinary costs as a basis for further discipline to ensure enforcement, further discussion will take place with staff. Mr. Traynham moved to accept the proposed legislation regarding recovery of disciplinary costs. The motion was seconded and carried unanimously.
- Exemption to licensure for nurses from other states for practice in a summer camp or education/recreational activity in Virginia. Dr. Hahn moved to accept the proposed legislation. The motion was seconded and carried unanimously.
- Adding FSMTB examination acceptable for certification in massage therapy and eliminating outdated language regarding grandfathering. Mr. Traynham moved to accept the proposed legislation. The motion was seconded and carried unanimously.
- Authorization to issue a summary suspension or summary restriction of a nursing education program that constitutes a danger to public health or safety. Dr. Hahn moved to accept the proposed legislation. The motion was seconded and carried unanimously.

Dr. Cane and Mr. Owens left the meeting.

RECESS: The Board recessed at 12:04 P.M.

RECONVENTION: The Board reconvened at 1:16 P.M.

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 is pending in Hampton Circuit Court.
- Sylvester Britt, RN – appeal is pending in Portsmouth Circuit Court, awaiting establishment of hearing to be scheduled.
- Colby Mansell, RN – appeal is pending in Spotsylvania Circuit Court. Petition was filed and awaiting transmission of the record.
- Tania Lee, CNA Reinstatement – appeal is pending in Fauquier Circuit Court. Briefing schedule established and expect to file brief and the hearing is scheduled for October 2011.
- David Thurston, RN – appeal is pending in Williamsburg/James City County Circuit Court. Petition for appeal has not been filed and may be past the deadline.

NCSBN Annual Report:

Ms. Douglas passed around the report provided by NCSBN for Board members to review.

At the 2011 NCSBN Annual Meeting, the Delegate Assembly will consider topics that include:

- Amendments to core licensure requirements, two associate member boards (Singapore and Nova Scotia)
- 2011 slate of candidates (Ms. Lane running for second term on the Leadership Succession Committee)

Virginia Action Coalition Update:

Ms. Douglas reported her participation in the Access to Care Workgroup of the Virginia Action Coalition (VAC). The majority of discussion was related to nurse practitioner scope of practice. Some barriers may not be related to laws and regulations, but confusion regarding roles. Ms. Douglas is participating as a liaison to the Team Based Care Workgroup, but reported a meeting of this workgroup has not been held.

Dr. Selig and Dr. Hahn reported on the Leadership Workgroup that met by conference call and discussed goals.

Dr. Saxby has been assigned to be a liaison to the Education Workgroup, working on seamless transition and increasing the standard level of education of registered nurses to a BSN. Ms. Douglas added VCU Health System is instituting a policy for newly hired nurses to obtain a BSN within five years.

Information from all workgroups is available on the Virginia Nurses Association website.

Nurse Practitioner Scope of Practice Study:

The Board of Health Professions is conducting a study regarding access to care pursuant to a request from Secretary Hazel. The initial report is available on the BHP website. A public hearing will be held on July 29, 2011.

CONSIDERATION OF ACCOMMODATION REQUEST, 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 1:36 P.M. for the purpose of deliberation to consider an accommodation request, consent orders and recommendations regarding applicants. Additionally, Ms. Lindsay moved that Ms. Tiller, Ms. Kleiner, Ms. Douglas, Ms. Krohn, Ms. Power, Ms. Mitchell, Dr. Saxby, Ms. Dowling, 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 1:50 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.

Angela Nelson – NNAAP exam accommodation request

Ms. Hartz moved grant the request for extra time, but deny the request for a separate room to take the NNAAP exam. The motion was seconded and carried unanimously.

Nicole Hirt Doroski, R.N. Reinstatement – 0001-217328

Ms. Lindsay moved to accept the consent order to reinstate the professional nursing license of Nicole Hirt Doroski and to indefinitely suspend the license with the suspension stayed contingent upon Ms. Doroski remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Connie Banner, L.P.N. 0002-053001

Dr. Hahn moved to accept the consent order to indefinitely suspend the practical nursing license of Connie Banner until such time as she can appear before the Board and provide evidence that she is safe and competent to resume practice. The motion was seconded and carried unanimously.

Teresa E. Jett, R.N. 0001-127141

Ms. Lane moved to accept the consent order to reprimand Teresa Jett and to indefinitely suspend the professional nursing license of Ms. Jett, and stay the suspension contingent upon her 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.

Kay A. Romain, R.N. 0001-161452

Ms. Lane moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the professional nursing license of Kay Romain. The motion was seconded and carried unanimously.

Joyce Spears, R.M.A. 0031-004072

Ms. Lane moved to accept the consent order to indefinitely suspend the medication aide registration of Joyce Spears and stay the suspension contingent upon her successful completion of the 68-hour curriculum of a Board approved medication aide training program. The motion was seconded and carried unanimously.

Michelle Ellers, R.N. 0001-209732

Ms. Lane moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Michelle Ellers. The motion was seconded and carried unanimously.

Pamela E. Chapman, R.N. 0001-178472

Ms. Lane moved to accept the consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Pamela Chapman. The motion was seconded and carried. Ms. Minton abstained.

Aaron Darum Almazan, R.N. Reinstatement 0001-169006

Ms. Lane moved to accept the consent order to reinstate the professional nursing license of Aaron Almazan. The motion was seconded and carried unanimously.

Karen S. Reilly, R.N. 0001-062224

Ms. Lane moved to accept consent order for the voluntary surrender for indefinite suspension of the professional nursing license of Karen Reilly. The motion was seconded and carried unanimously.

Abigail Legaspi, R.N. Applicant

Ms. Lindsay moved to accept the recommended decision of the informal conference committee to deny the application of Abigail Legaspi for licensure as a professional nurse. The motion was seconded and carried unanimously.

Karen Lee, C.N.A. Applicant

Ms. Lindsay moved to accept the recommended decision of the informal conference committee to deny the application of Karen Lee for certification as a nurse aide. The motion was seconded and carried unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 2:00 P.M.

Evelyn Lindsay, L.P.N.
Secretary

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