

**VIRGINIA BOARD OF NURSING
MINUTES
JULY 19, 2005**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on July 19, 2005, in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Judith E. Piersall, R.N., B.S.N., President

**BOARD MEMBERS
PRESENT:**

Gregory J. Huber, R.N., M.S.N., Secretary
Lynne M. Cooper, Citizen Member
Linda D. Gross, Citizen Member
Brenda L. Hale, R.N.
Woody B. Hanes, R.N., M.S.N., F.N.P.
John M. Horn, L.P.N.
Florence Jones-Clarke, R.N., M.S.
Lawrence L. Logan, Citizen Member
G. Maxine Ponn, L.P.N.
Patricia M. Selig, R.N., F.N.P., Ph.D.
Brenda L. Spady, L.P.N.

**BOARD MEMBER
ABSENT:**

Patricia C. Lane, R.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, Nurse Aide Registry
Manager
Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant
Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Cindy Cochran, R.N., Discipline Case Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General
Robert A. Nebiker, Director, Department of Health Professions
Gail Jaspen, Chief Deputy Director, Department of Health Professions
Elaine Yeatts, Policy Analyst, Department of Health Professions
Jan Johnson, Executive Director, Virginia Nurses Association
Emily O. Wingfield, Assistant Attorney General (joined later)

**ESTABLISHMENT OF
A QUORUM:**

With 12 members of the Board present, a quorum was established.

ANNOUNCEMENTS:

- Welcome of new Board members
 - John M. Horn, L.P.N.
 - Florence Jones-Clarke, R.N.
 - Patricia C. Lane, R.N. (not present)
 - Lawrence L. Logan, Citizen Member
 - G. Maxine Ponn, L.P.N.
 - Patricia M. Selig, R.N., F.N.P., Ph.D.
- NCSBN Delegate Assembly, August 2 – 5, 2005 in Washington D.C. Ms. Piersall, Dr. Saxby and Ms. Douglas will attend. Ms. Hanes is unable to attend as previously planned.
- Board of Nursing meeting dates are September 19 – 22, 2005 and November 14 – 17, 2005
- Recognition of service for former Board members will be the evening of Tuesday, July 19, 2005 for
 - Carol E. King, L.P.N., M.S.
 - Louise D. Hartz, Citizen Member
 - Louisa Lief, R.N.
 - Julia C. Semple, L.P.N.
 - JoAnn Tillett, R.N.
 - Janet B. Younger, R.N., P.N.P., Ph.D.information about the location will be provided by Ms. Davis
- Committee of the Joint Boards of Nursing and Medicine next meeting date is August 24, 2005
- Kimberly Baldwin, Administrative Assistant for Nursing Discipline has transferred to the Enforcement Division July 5, 2005.

DIALOGUE WITH AGENCY DIRECTOR:

Mr. Nebiker provided an update of the Prescription Drug Monitoring Bill, the program should become effective statewide with adoption of emergency regulations. A \$35,000 Federal grant has been received to fund the program. The budget review process for the Department of Health Professions is underway, The Board of Health Professions is currently reviewing budget proposals. Discussed Board of Nursing disciplinary caseload and encouraged the use of agency subordinate as appropriate. Reviewed information from Office of the Attorney General regarding conflict of interest with testing organizations.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed one item from the proposed consent agenda and adopted a motion by Ms. Cooper to accept the remaining items which include:
Minutes:

- May 16, 2005 - Panel – Ms. Piersall
- May 17, 2005 – Board Meeting – Ms. Lief
- May 18, 2005 – Quorum – Ms. Lief
- May 18, 2005 – Panel – Ms. Lief
- May 18, 2005 – Panel – Ms. Piersall
- May 19, 2005 – Panel – Ms. Lief

- June 1, 2005 – Telephone Conference Call – Ms. Lief
- June 24, 2005 – Telephone Conference Call – Ms. Lief

Mr. Huber moved to adopt the minutes below changing the title of the meeting..
The motion was seconded and carried unanimously.

- May 18, 2005 – Discussion of Disciplinary Matters – Ms. Lief

Ms. Douglas reviewed the purpose and content of the routine reports for new Board members. In subsequent meetings, these reports will be included in the consent agenda.

REPORTS:

Finance Report:

Ms. Douglas gave an overview of the report indicating the 4 cost codes of 101 for nursing, 111 and 112 for nurse aide registry and 204 for Board member expenses.

Board of Nursing Monthly Tracking Log:

Ms. Douglas reviewed the report.

Health Practitioners Intervention Program:

An overview of the report was provided by Ms. Douglas.

NCSBN Nurse Aide/Medication Aide Workshop:

Ms. Cooper reported that she and Ms. Hanes, Ms. Yeatts, Dr. Saxby and Ms. Douglas attended the June meeting and reported the information received was very informative and will be helpful in assisting the Board in developing legislation to regulate medication aides. Several states were represented at the meeting.

Executive Director Report:

Information regarding current issues, meetings and presentations by Board of Nursing staff was included in the report.

Board of Health Professions:

Ms. Cooper reviewed the minutes of the meeting held July 14, 2005 to include:

- Prescription Drug Monitoring Program
- Regulatory process update
- Case completion
- Sanction Reference Study
- BHP conference is planned for October 2005
- Executive Committee discussed budget proposals
- Licensure of Naturopaths

Mary Marshall Scholarship Fund:

Ms. Ressler provided an overview of the fund, the application process, and the current statistics of amounts awarded to nursing students.

Nurse Licensure Compact Administrators Meeting (NLCA):

Ms. Douglas discussed a task force has been formed to develop investigator and discipline staff education workshop. The military policy has been revised. The NURSUS verification systems now includes 28 states. The Mississippi Board of

Nursing has asked to not allow their verification information to be used due to data inconsistencies with NURSYS. Ms. Douglas will attend the NLCA meeting in August in Washington D.C.

Recommendations to 2005 NCSBN Delegate Assembly:

Ms. Douglas reported that she and Ms. Piersall will attend the meeting. Topics that will be discussed include:

- Proposed delegation to unlicensed staff position paper
- Adoption of proposed model acts and rules related to delegation and nursing assistant
- Proposed paper on nursing education clinical instruction in pre-licensure programs
- Proposed paper on criminal background checks
- Nomination of National Council officers

Interagency Agreement Regarding Nurse Aide Registry:

The agreement between the Department of Health Professions, Virginia Department of Health and the Department of Medical Assistance Services was discussed regarding funding for the Nurse Aide Registry.

Department of Health Professions Request for Attorney General Opinion and Response:

A request from the Department of Health Professions was sent to Attorney General Kilgore for an opinion regarding potential conflict of interest for a Board member or staff to accept pay or cost of travel and expenses from an organization that administers an examination required for licensure. The reply from Attorney General Kilgore is that there could be a violation in certain circumstances.

Selection of Committee for Bylaws Revision:

Ms. Piersall asked for those interested in serving on the Committee to let her know today, Mr. Huber will chair the committee.

Commitment to Ongoing Regulatory Excellence (CORE) Project:

Ms. Douglas discussed the National Council project is similar to the Sanction Reference Study and that data collection from stakeholders would be required to participate in the project. The project assesses best practices of Board's of Nursing in the area of licensing, education, discipline and customer service. Ms. Douglas will obtain additional information for the Board's review and approval.

NCSBN On-line Course:

Mr. Huber reported the information has been submitted to NCSBN. Formation of the course has not been completed. Staff anticipates that the final product will be ready for presentation at the September 2005 Board meeting.

REGULATIONS:

Chart of Regulatory Action:

Ms. Yeatts reviewed the information regarding adoption of a NOIRA for periodic review and the regulations governing medication aides.

Notice of Intended Regulatory Action (NOIRA) for Chapter 20 (Nursing) and Chapter 25 (Nurse Aide):

Public comment period was April 4, 2005 to May 4, 2005, 3 comments were received and a NOIRA has been drafted. Ms. Hanes moved to adopt the NOIRA to begin development of amended regulations for Chapters 20 and 25. The motion was seconded and carried unanimously.

2006 Legislative Proposals:

Ms. Yeatts discussed the issue of §54.1-2409 to include a catch-all provision to include multi state licensure privilege to all “license” references. Mr. Huber moved to support the addition. The motion was seconded and carried unanimously.

Regulations for Registration of Medication Aides:

A notice was mailed to interested parties regarding the meeting that was held July 12, 2005 to develop regulations. Proposed regulations may be available by November 2005 Board meeting.

Petition for Rule Making:

The Board received a petition to amend regulations to establish an inactive license status. Additional public comment has been requested until August 24, 2005 to determine if amendments to regulations are necessary. The results of the public comment will be presented at the September 2005 Board meeting.

Board of Medicine Regulatory Actions:

Ms. Yeatts reported on two regulatory actions before the Board of Medicine that could potentially impact licensees of the Board of Nursing:

- The Board of Medicine has received a petition for rule making from the Commission of Health requesting an amendment to require a registered nurse as the circulating nurse for procedures involving anesthesia in physician’s offices. The requirement for office-based anesthesia would be similar to a recent amendment for regulations governing the licensure of hospitals. Originally, the comment period was to close on July 5, 2005, but the Board has extended the comment on the petition until August 22, 2005 and will decide whether to initiate rule making or deny the petition at its September 16, 2005 meeting. The Board of Dentistry has received a similar petition for a registered nurse as the circulating nurse in a dental office where office-based surgery is being performed.
- The Board has proposed to amend its regulations for office based anesthesia to clarify that a major conductive block could be performed by a qualified doctor of medicine, osteopathic medicine or podiatry or by a CRNA (currently, the rule specifies an anesthesiologist or a CRNA). Comments from a number of doctors have requested that the Board amend its proposal to prohibit CRNA’s from doing major conductive blocks for diagnostic or therapeutic purposes. In spite of assurances that CRNA’s are by law to practice under the direction and supervision of a licensed doctor, there is concern that the amended rule would permit CRNA’s to set up independent practice and to diagnose independently of a physician. Since this is a fast-track regulation, it will become effective unless there are at least 10 objections to the language, in which case, the proposal stand as a Notice of Intended Regulatory Action and the Board must decide whether to proceed with amending regulations.

RECESS: The Board recessed at 10:35 A.M.

RECONVENTION: The Board reconvened at 11:00 A.M.

OPEN FORUM: No one was present.

REPORTS (continued) **NNAAP and NCLEX Examination:**
Dr. Saxby reviewed the results of the NNAAP exam. Ms. Ressler reviewed the results of the NCLEX reports.

NNAAP Skills Evaluation:
Dr. Saxby reviewed the proposed skills to be added to the skills evaluation for nurse aides to be effective with January 2006 testing. Ms. Hanes moved to adopt the addition of reading a glass thermometer to the skills evaluation. The motion was seconded and carried unanimously. Ms. Hanes moved to adopt the addition of separating pulse and respiratory readings as separate skills. The motion was seconded and carried unanimously.

Medication Aide Task Force:
The minutes from the meeting held July 12, 2005 were reviewed. Ms. Cooper moved to accept the minutes as presented. The motion was seconded and carried unanimously.

CASE ADJUDICATION: **Consent Orders:**

CLOSED SESSION: Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 11:25 A.M. for the purpose of consideration and discussion of consent orders. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Power, Dr. Saxby, Ms. Rosen, Ms. Ressler, Ms. Cochran, Mr. Casway and Ms. Davis 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 11:55 A.M.

Mr. Huber 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.

Donna P. Pannacci, R.N. 1401-122537
Ms. Cooper moved to accept the Consent Order to accept the surrender for indefinite suspension of the right to renew the registered nurse license of Ms. Pannacci.
The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Wilma Jane Paitsel, L.P.N. 0002-009328

Ms. Spady moved to accept the Consent Order for the voluntary surrender of Ms. Paitsel's practical nurse license and that the right to renew her license as well as the multistate privilege to practice be indefinitely suspended.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Virginia McPherson, C.N.A. 1401-029433

Ms. Hale moved to accept the Consent Order for indefinite suspension of Ms. McPherson's nurse aide certificate until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to practice.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Sandra M. Kennedy, L.P.N. 0002-052305

Ms. Hanes moved to accept the Consent Order for indefinite suspension of Ms. Kennedy's practical nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Elizabeth Gayle Dunnaway, R.N. 0001-047508

Mr. Huber moved to reject the Consent Order and moved to offer a Consent Order to accept the surrender and indefinite suspension of the registered nurse license of Ms. Dunnaway, until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to practice.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon endorsement of its findings, conclusions, and terms of consent by both Ms. Dunnaway and the Board.

Lori Ann Miller, R.N. 0001-150855

Mr. Logan moved to accept the Consent Order to indefinitely suspend the registered nurse license of Ms. Miller.

The motion was seconded and carried unanimously.

Elisa Dove, R.N. 0001-170999

Ms. Hale moved to accept the Consent Order for the voluntary surrender and indefinite suspension of Ms. Dove's registered nurse license and for the voluntary surrender and indefinite suspension of Ms. Dove's right to renew her practical nurse license.

RECESS:

The Board recessed at 12:05 P.M.

RECONVENTION:

The Board reconvened at 1:10 P.M.

Election of Vice President:

Ms. Hale moved to nominate Lynne Cooper for the office of Vice President of the Board. The motion was seconded and carried unanimously. Mr. Huber moved to close the nominations. The motion was seconded and carried unanimously. The Board voted unanimously to elect Lynne Cooper as Vice President.

Committee of the Joint Boards of Nursing and Medicine Assignment:

Ms. Piersall announced she will chair the Committee of the Joint Boards of Nursing and Medicine. Other Board members assigned to the Committee will be Woody Hanes and Patricia Selig.

PUBLIC HEARING:

Public Hearing on Proposed Amendment to Nurse Aide Regulations for \$5.00 Fee Increase Per Biennium:

No one was present to address the Board.

OTHER MATTERS:

Mr. Casway presented information to the Board regarding the Administrative Process Act, informal conferences, formal hearings, how to prepare for hearings and potential conflicts of hearings.

Ms. Wingfield joined the meeting and was introduced by Mr. Casway.

**CONSIDERATION OF
AGENCY SUBORDINATE
RECOMMENDATIONS:**

Ms. Power and Ms. Rosen reported that none of the respondent's had indicated they would appear.

CLOSED SESSION:

Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 3:55 P.M. for the purpose of consideration of the recommendation of the agency subordinate. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Power, Ms. Rosen, Mr. Casway and Ms. Davis 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 4:30 P.M.

Mr. Huber 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.

Betty Gay Bennett, R.N. 0001-172998

Ms. Bennett did not appear.

Ms. Hale moved to accept the recommended decision of the agency subordinate to indefinitely suspend Ms. Bennett's right to renew her registered nurse license for a period of not less than two years.

The motion was seconded and carried unanimously.

Sister Jeanne Ries, R.N. Reinstatement Applicant 0001-060789

Sister Ries did not appear.

Ms. Spady moved to accept the recommended decision of the agency subordinate to reinstate Sister Ries' registered nurse license.

The motion was seconded. The motion failed. Ms. Piersall stated the agency subordinate recommendation was rejected and therefore Sister Ries will be scheduled for a formal hearing.

Nancy B. Michaels, R.N. 0001-073500

Ms. Michaels did not appear.

Ms. Cooper moved to accept the recommended decision of the agency subordinate for indefinite suspension of Ms. Michael's registered nurse license for a period of not less than three years.

The motion was seconded and carried unanimously.

Marilyn M. Hong, R.N. 0001-145607

Ms. Hong did not appear.

Dr. Selig moved to accept the recommended decision of the agency subordinate for indefinite suspension of Ms. Hong's registered nurse license for a period of not less than two years.

The motion was seconded and carried unanimously.

Patricia S. Hartsock, R.N. 0001-095994

Ms. Hartsock did not appear.

Ms. Cooper moved to accept the recommended decision of the agency subordinate to indefinitely suspend Ms. Hartsock's registered nurse license.

The motion was seconded and carried unanimously.

Dana B. May, R.N. 0001-144668

Ms. May did not appear.

Dr. Selig moved to accept the recommended decision of the agency subordinate to indefinitely suspend Ms. May's right to renew her registered nurse license for a period of not less than two years.

The motion was seconded and carried unanimously.

Melissa Jacuzzi, C.N.A. 1401-085650

Ms. Jacuzzi did not appear.

Ms. Hale moved to accept the recommended decision of the agency subordinate to indefinitely suspend Ms. Jacuzzi's nurse aide certificate for a period of not less than three years.

The motion was seconded and carried unanimously.

Yvette M. Rose, C.N.A. Reinstatement Applicant 1401-002574

Ms. Rose did not appear.

Mr. Logan moved to accept the recommended decision of the agency subordinate to reinstate the nurse aide certificate of Ms. Rose with terms.

The motion was seconded and carried unanimously.

Ms. Piersall left the meeting at 4:35 P.M. Mr. Huber presided over the discussion of the remaining agency subordinate recommendations.

CLOSED SESSION:

Ms. Hanes moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 4:35 P.M. for the purpose of consideration of the recommendation of the agency subordinate. Additionally, Ms. Hanes moved that Ms. Douglas, Ms. Power, Ms. Rosen, Mr. Casway and Ms. Davis 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 4:45 P.M.

Mr. Hanes 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.

Barbara A. Posey, C.N.A. 1401-088119

Ms. Posey did not appear.

Ms. Hanes moved to accept the recommended decision of the agency subordinate to reprimand Ms. Posey.

The motion was seconded and carried unanimously.

Connie Graves, C.N.A. 1401-100858

Ms. Graves did not appear.

Ms. Cooper moved to accept the recommended decision of the agency subordinate to reprimand Ms. Graves.

The motion was seconded and carried unanimously.

Brendolyn D. Lewis, C.N.A. 1401-043824

Ms. Lewis did not appear.

Mr. Logan moved to accept the recommended decision of the agency subordinate to revoke the nurse aide certificate of Ms. Lewis with a finding of abuse and a finding of neglect.

The motion was seconded and carried unanimously.

Ms. Piersall re-joined the meeting.

EDUCATION
PROGRAMS:

Education Special Conference Committee:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on July 18, 2005.

Mr. Huber moved that the Board of Nursing adopt the recommendations.

The motion was seconded and carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 5:00 P.M.

Gregory J. Huber, R.N., M.S.N.
Secretary

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