

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
September 13, 2012**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:10 A.M. on September 13, 2012 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS
PRESENT: Patricia C. Lane, RN, BSN, MBA, Chairperson
Louise D. Hartz, Citizen Member
Jeanne Holmes, Citizen Member
Jane R. Ingalls, RN, PhD
Trula Minton, MS, RN

STAFF PRESENT: Gloria D. Mitchell, RN, MSN, MBA, Deputy Executive Director
Jodi P. Power, RN, JD, Deputy Executive Director
Amy Davis, Executive Assistant

OTHERS PRESENT: Howard M. Casway, Senior Assistant Attorney General
Nursing students from George Washington University

ESTABLISHMENT OF
A QUORUM: With five members of the Board present, a quorum was established.

FORMAL HEARINGS: **Cynthia L. Smith, RN Reinstatement Applicant 0001-156364**
Ms. Smith appeared, represented by attorney, Pamela Branch.

Cynthia Gaines, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Sherelle Bradley, court reporter, recorded the proceedings.

Lynn Austin, Senior Investigator, Department of Health Professions; Honesty Liller, Peer Coordinator, McShin Foundation; and Frank Brewer, McShin Foundation were present and testified. John Shinholser, McShin Foundation testified by telephone.

CLOSED MEETING: Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:52 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Smith. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 11:14 A.M.

Ms. Hartz 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.

Ms. Minton moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Gaines and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Ms. Holmes moved that the Board of Nursing reprimand Cynthia Smith and reinstate the professional nursing license of Ms. Smith. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS:

The Board recessed at 11:18 A.M.

RECONVENTION:

The Board reconvened at 11:40 A.M.

FORMAL HEARINGS:

Kawana Brown, CNA 1401-137514

Ms. Brown appeared.

James Rutkowski, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Sherelle Bradley, court reporter, recorded the proceedings.

Anthony Sellers, Senior Investigator, Department of Health Professions; and Ann Lewis, RN, Avanté of Lynchburg were present and testified.

CLOSED MEETING:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 12:31 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Brown. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 12:54 P.M.

Ms. Hartz 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.

Ms. Minton moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Rutkowski and amended by the Board. The motion was seconded and carried unanimously.

ACTION:

Dr. Ingalls moved that the Board of Nursing revoke the right to renew the nurse aide certificate of Kawana Brown and enter a finding of abuse against her in the Virginia Nurse Aide Registry. The motion was seconded and carried. Ms. Minton, Ms. Hartz and Dr. Ingalls were in favor of the motion. Ms. Holmes and Ms. Lane opposed the motion.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

The students left the meeting.

FORMAL HEARINGS:

Phoebe W. Collins, CNA 1401-108296
Ms. Collins did not appear.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Sherelle Bradley, court reporter, recorded the proceedings.

Lisa Oliphant, Senior Investigator, Department of Health Professions was present and testified.

CLOSED MEETING:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:09 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Collins. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 1:15 P.M.

Ms. Hartz 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.

Ms. Minton moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Jones and amended by the Board. The motion was seconded and carried unanimously.

ACTION:

Dr. Ingalls moved that the Board of Nursing revoke the nurse aide certificate of Phoebe Collins and enter a finding of abuse against her in the Virginia Nurse Aide Registry. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS: **Dallas Gann, CNA 1401-148699**
Mr. Gann did not appear.

James Rutkowski, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Sherelle Bradley, court reporter, recorded the proceedings.

June Morrison, Senior Investigator, Department of Health Professions was present and testified. Alicia McDuffie, CNA testified by telephone.

CLOSED MEETING: Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:48 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. Gann. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 1:55 P.M.

Ms. Hartz 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.

ACTION: Ms. Hartz moved that the Board of Nursing dismiss the case in the matter of Dallas Gann due to insufficient evidence of a violation. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 1:57 P.M.

RECONVENTION: The Board reconvened at 2:44 P.M.

FORMAL HEARINGS: **Terry W. Cantrell, CNA 1401-108055**
Ms. Cantrell appeared, accompanied by her mother, Bonnie Wray.

Tammie Jones, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Sherelle Bradley, court reporter, recorded the proceedings.

Carole Crutchfield, Senior Investigator, Department of Health Professions; Bonnie Wray; Debra Hunter, CNA, Skyline Nursing and Rehab; Linda Butz,

CNA, Skyline Nursing and Rehab; and Jennifer Harris, RN, Director of Clinical Services, Skyline Nursing and Rehab were present and testified.

CLOSED MEETING: Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:49 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Cantrell. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 3:58 P.M.

Ms. Hartz 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.

ACTION: Ms. Holmes moved that the Board of Nursing dismiss the case in the matter of Terry Cantrell due to a lack of insufficient evidence of a violation. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 3:59 P.M.

RECONVENTION: The Board reconvened at 4:10 P.M.

FORMAL HEARINGS: **Patrick DeLutis, RN 0001-221082**
Mr. DeLutis did not appear.

James Rutkowski, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Sherelle Bradley, court reporter, recorded the proceedings.

Anthony Sellers, Senior Investigator, Department of Health Professions; Annette Sprague, Bon Secours Health System; Christine Smith, former employee of Bon Secours Health System; Jerry Diley, Audit Manager, Bon Secours Health System; and Ryan Augburn, CNA were present and testified.

CLOSED MEETING: Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 4:44 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. DeLutis. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 4:48 P.M.

Ms. Hartz 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.

CLOSED MEETING: Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 4:57 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. DeLutis. Additionally, Ms. Hartz moved that Ms. Mitchell, Ms. Power, 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 5:00 P.M.

Ms. Hartz 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.

Ms. Minton moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Rutkowski, and amended by the Board.

The motion was seconded and carried unanimously.

ACTION: Dr. Ingalls moved that the Board of Nursing revoke the license of Patrick DeLutis to practice professional nursing. The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 5:03 P.M.

Gloria D. Mitchell, RN, MSN, MBA
Deputy Executive Director