

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
January 28, 2013**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:55 A.M. on January 28, 2013 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS
PRESENT: Patricia M. Selig, RN, FNP, PhD; President
Allison Gregory, RN, FNP-BC
Louise D. Hartz, Citizen Member
John M. Horn, LPN
William Traynham, LPN, CSAC
Kristina Wright, CMT (joined later)

BOARD MEMBER
ABSENT: Evelyn Lindsay, LPN

STAFF PRESENT: Jay P. Douglas, RN, MSM, CSAC; 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 Southside Regional Medical Center

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

FORMAL HEARINGS: **Melissa E. F. Edens, LPN Reinstatement Applicant 0002-078539**
Ms. Edens appeared, accompanied by her husband, Derek Edens, LPN; and mother-in-law, Rita Edens, RN.

David Kazzie, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lisa Mattson, court reporter with Crane-Snead Reporting, recorded the proceedings.

Derek Edens, LPN; Rita Edens, RN; and Vicky Fox, Senior Investigator, Department of Health Professions were present and testified.

CLOSED MEETING: Ms. Gregory moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:20 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Edens. Additionally, Ms. Gregory moved that Ms. Douglas, 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 10:33 A.M.

Ms. Gregory 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. Hartz moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Kazzie and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Mr. Traynham moved that the Board of Nursing reinstate the practical nursing license of Melissa Edens. 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.

Ms. Hartz left the meeting, Ms. Wright joined the meeting.

FORMAL HEARINGS:

Erica Steele, CMT 0019-005013

Ms. Steele appeared, accompanied by a friend, Dee Sube.

James Rutkowski, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lisa Mattson court reporter with Crane-Snead Reporting, recorded the proceedings.

June Morrison, Senior Investigator, Department of Health Professions; Jessica Taylor, former employee of Essential Wellness; Rebecca Livas, former employee of Essential Wellness; and Bryan McMurray, former employee of Essential Wellness were present and testified.

CLOSED MEETING:

Ms. Gregory moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:52 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Steele. Additionally, Ms. Gregory moved that Ms. Douglas, 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. Gregory 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. Gregory 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:

Ms. Wright moved that the Board of Nursing indefinitely suspend the massage therapy certificate of Erica Steele for a period of not less than one year with said suspension stayed indefinitely contingent upon providing proof to the Board of (1) that she has removed any references in her practice advertisement as a certified massage therapist to include business cards, website and publications wherein she represents or holds herself out as “doctor” or “Dr” unless in conformity with Virginia Code §54.1-2903 and (2) provide an attestation that she has read the Virginia laws and regulations governing the practice of massage therapy. Upon receipt of such proof, said suspension will be stayed and Ms. Steele shall comply with the following terms and conditions: (1) provide a copy of the order of the board to all staff and employed or contracted licensed health care providers in her practice (2) provide proof of posting her massage therapy certificate conspicuously in her practice location pursuant to 18VAC90-50-20(C) and (3) her practice shall be subject to an unannounced inspection to confirm compliance with the order within the one year period of stayed suspension. Further, any violation shall result in a summary rescission of the stayed suspension. Ms. Steele may petition the Board for reinstatement of her certificate after a period of one year, and an administrative review of her compliance with said order and eligibility for reinstatement may occur at such time. 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.

Ms. Wright left the meeting. Ms. Hartz re-joined the meeting.

RECESS:

The Board recessed at 1:00 P.M.

RECONVENTION:

The Board reconvened at 1:39 P.M.

FORMAL HEARINGS:

Edith M. McAfee, RN 0001-190096

Ms. McAfee did not appear.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lisa Mattson, court reporter with Crane-Snead Reporting, recorded the proceedings.

James Wall, Senior Investigator, Department of Health Professions; Bonnie Parker, RN Carilion Clinic, Roanoke Community Hospital; Stimis Smith, RN, Carilion Clinic, Roanoke Community Hospital were present and testified.

CLOSED MEETING:

Ms. Gregory moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 2:12 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. McAfee. Additionally, Ms. Gregory moved that Ms. Douglas, 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 2:22 P.M.

Ms. Gregory 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.

Mr. Horn 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:

Ms. Hartz moved that the Board of Nursing indefinitely suspend the license of Edith McAfee to practice professional nursing until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to resume practice. 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:

Mindee Cunningham, RN 0001-185464

Ms. Cunningham did not appear.

Tammie Jones, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lisa Mattson, court reporter with Crane-Snead Reporting, recorded the proceedings.

Ron Houser, Senior Investigator, Department of Health Professions; and Chris Bowers, Case Manager, Health Practitioners Monitoring Program were present and testified.

CLOSED MEETING:

Ms. Gregory moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 2:46 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Cunningham. Additionally, Ms. Gregory moved that Ms. Douglas, 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 2:54 P.M.

Ms. Gregory 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.

Mr. Horn moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Jones.

The motion was seconded and carried unanimously.

ACTION:

Ms. Gregory moved that the Board of Nursing indefinitely suspend the professional nursing license of Mindee Cunningham for a period of not less than two years and until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to resume practice. 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 2:56 P.M.

RECONVENTION:

The Board reconvened at 3:13 P.M.

FORMAL HEARINGS:

Rebecca Day, RN Reinstatement Applicant 0001-068235

Ms. Day appeared.

Olivia Exterovich, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lisa Mattson, court reporter with Crane-Snead Reporting, recorded the proceedings.

CLOSED MEETING:

Ms. Gregory moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:43 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Day. Additionally, Ms. Gregory moved that Douglas, 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 3:54 P.M.

Ms. Gregory 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. Hartz moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Exterovich and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Mr. Horn moved that the Board reinstate the license of Rebecca Day to practice as a professional nurse and issue a single state “valid in Virginia only” license. 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: **Cara Bialkowski, RN 0001-220356**
Ms. Bialkowski did not appear.

Cynthia Gaines, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Lisa Mattson, court reporter with Crane-Snead Reporting, recorded the proceedings.

Kim Martin, Senior Investigator, Department of Health Professions; LCDR Shayne Morris, RN, Portsmouth Naval Hospital were present and testified.

CLOSED MEETING: Ms. Gregory 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 Ms. Bialkowski. Additionally, Ms. Gregory moved that Ms. Douglas, 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 4:56 P.M.

Ms. Gregory 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. Gregory 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: Mr. Traynham moved that the Board of Nursing indefinitely suspend the license of Cara Bialkowski to practice as a professional nurse until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to resume practice. 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 4:58 P.M.

Jodi P. Power, RN, JD
Deputy Executive Director