

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
September 16, 2013**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:30 A.M. on September 16, 2013 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS
PRESENT: Jane R. Ingalls, RN, PhD; President
Guia Caliwagan, RN, MAN
Allison Gregory, RN, FNP-BC
Louise Hershkowitz, CRNA, MSHA
John M. Horn, LPN
William Traynham, LPN, CSAC

STAFF PRESENT: Brenda Krohn, RN, MS; Deputy Executive Director
Gloria D. Mitchell, RN, MSN, MBA; Deputy Executive Director
Amy Davis, Executive Assistant

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General
Erin Barrett, Assistant Attorney General (joined later)
Nursing students from John Tyler Community College – Chester Campus

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

FORMAL HEARINGS: **Arlena Brown, LPN 0002-066137**
Ms. Brown appeared.

James Rutkowski Adjudication Specialist represented the Commonwealth. Ms. C. Mitchell was legal counsel for the Board. Sherelle Bradley, court reporter with Crane Snead Reporting, recorded the proceedings.

Kelly Ashley, Senior Investigator, Department of Health Professions was present and testified.

CLOSED MEETING: Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:11 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Brown. Additionally, Mr. Horn moved that Ms. Krohn, Ms. G. Mitchell; Ms. Davis and Ms. C. 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 10:26 A.M.

Mr. Horn 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. Traynham 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. Gregory moved that the Board of Nursing indefinitely suspend the practical nursing license of Arlena Brown but stay the suspension contingent upon proof of 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.

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 10:20 A.M.

RECONVENTION: The Board reconvened at 10:38 A.M.

Ms. C. Mitchell left to attend to business for another board. Ms. Barrett joined the meeting as Board counsel.

FORMAL HEARINGS: **Jennifer Jones, LPN Reinstatement Applicant 0002-083823**
Ms. Jones appeared.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Ms. Barrett was legal counsel for the Board. Sherelle Bradley court reporter with Crane Snead Reporting, recorded the proceedings.

Patricia Sheehan, Senior Investigator, Department of Health Professions was present and testified.

CLOSED MEETING: Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:32 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Jones. Additionally, Mr. Horn moved that Ms. Krohn, Ms. Mitchell, Ms. Graham and Ms. Barrett 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 12:19 P.M.

Mr. Horn 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. T. Jones and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Ms. Hershkowitz moved that the Board of Nursing deny the reinstatement application of Jennifer Jones and to continue the practical nursing license of Jennifer Jones on indefinite suspension but stay the suspension upon her continued compliance with the Health Practitioners Monitoring Program. 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.

The students left the meeting to resume their normal schedule.

RECESS:

The Board recessed at 12:27 P.M.

RECONVENTION:

The Board reconvened at 12:35 P.M.

FORMAL HEARINGS:

Grace E. Emah, RN Reinstatement Applicant 0001-198232

Ms. Emah appeared, accompanied by her husband Ernest Emah; and spiritual advisor, Prophetess Andrea.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Ms. Barrett was legal counsel for the Board. Sherelle Bradley, court reporter with Crane Snead Reporting, recorded the proceedings.

Patricia Sheehan, Senior Investigator, Department of Health Professions; Prophetess Andrea; Ernest Emah; and Tonya James, Compliance Manager, Board of Nursing was present and testified.

CLOSED MEETING:

Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:27 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Emah. Additionally, Mr. Horn moved that Ms. Krohn, Ms. Mitchell, Ms. Davis and Ms. Barrett 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 2:01 P.M.

Mr. Horn 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. Hershkowitz moved that the Board of Nursing reinstate the professional nursing license of Grace Emah on indefinite probation with terms for a period of not less than 2 years of actual nursing practice and further, issue an order of reprimand. The motion was seconded and carried. Ms. Caliwagan, Ms. Gregory, Ms. Hershkowitz, Mr. Horn and Dr. Ingalls were in favor of the motion. Mr. Traynham 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.

RECESS:

The Board recessed at 2:05 P.M.

RECONVENTION:

The Board reconvened at 2:40 P.M.

Ms. C. Mitchell rejoined the meeting as Board counsel. Ms. Barrett left the meeting to resume her normal schedule.

FORMAL HEARINGS:

Karen J. Whitaker, RN Reinstatement Applicant 0001-201211
Ms. Whitaker appeared.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Ms. C. Mitchell was legal counsel for the Board. Sherelle Bradley, court reporter with Crane Snead Reporting, recorded the proceedings.

Joyce Shelton-Jones, Senior Investigator, Department of Health Professions was present and testified.

CLOSED MEETING:

Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:16 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Whitaker. Additionally, Mr. Horn moved that Ms. Krohn, Ms. G. Mitchell, Ms. Davis and Ms. C. 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 3:41 P.M.

Mr. Horn 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. Hershkowitz moved that the Board of Nursing deny the reinstatement application of Karen Whitaker. 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:

Lisa A. Shoup, RN Reinstatement Applicant 0001-13416

Ms. Shoup appeared.

Anne Joseph, Deputy Director, Administrative Proceedings Division, represented the Commonwealth. Ms. C. Mitchell was legal counsel for the Board. Sherelle Bradley, court reporter with Crane Snead Reporting, recorded the proceedings.

James Gray, friend of Ms. Shoup; Casey Smith, daughter of Ms. Shoup; Augustine Allen, friend and former coworker of Ms. Shoup; Vicky Atoness, friend of Ms. Shoup; Kimberly Lynch, Senior Investigator, Department of Health Professions; Dawn France, Case Manager, Health Practitioners Monitoring Program; and Kevin Almeida, Senior Investigator, Department of Health Professions were present and testified.

CLOSED MEETING:

Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 5:17 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Shoup. Additionally, Mr. Horn moved that Ms. Krohn, Ms. G. Mitchell, Ms. Davis and Ms. C. 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 5:36 P.M.

Mr. Horn 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. Joseph and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Ms. Gregory moved that the Board of Nursing reinstate the professional nursing license of Lisa Shoup. 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. Gregory left the meeting due to a scheduling conflict.

FORMAL HEARINGS: **Jamel Q. Smith, RMA 0031-005244**
Mr. Smith did not appear.

David Kazzie, Adjudication Specialist, represented the Commonwealth. Ms. C. Mitchell was legal counsel for the Board. Sherelle Bradley, court reporter with Crane Snead Reporting, recorded the proceedings.

Kevin Pultz, Senior Investigator, Department of Health Professions; and Kelly Louck, LPN, Administrator, Heritage Inn Assisted Living were present and testified.

CLOSED MEETING: Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 6:00 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. Smith. Additionally, Mr. Horn moved that Ms. Krohn, Ms. G. Mitchell, Ms. Davis and Ms. C. 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 6:03 P.M.

Mr. Horn 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. Joseph.

The motion was seconded and carried unanimously.

ACTION: Mr. Traynham moved that the Board of Nursing revoke the medication aide registration of Jamel 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.

Ms. Krohn left the meeting due to a scheduling conflict.

FORMAL HEARINGS: **Ann Marie Smith, CNA 1401-122930; RMA 0031-00679**
Ms. Smith did not appear.

Tammie Jones, Adjudication Specialist, represented the Commonwealth. Ms. C. Mitchell was legal counsel for the Board. Sherelle Bradley, court reporter with Crane Snead Reporting, recorded the proceedings.

Ron Houser, Senior Investigator, Department of Health Professions; Wendy Kling, LPN, Timberview Crossing Assisted Living; and Tiffany Marteney, CNA, Timberview Crossing Assisted Living were present and testified.

CLOSED MEETING: Mr. Horn moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 6:31 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Smith. Additionally, Mr. Horn moved that Ms. G. Mitchell, Ms. Davis and Ms. C. 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 6:38 P.M.

Mr. Horn 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. Hershkowitz moved that the Board of Nursing revoke the medication aide registration of Ann Marie Smith. The motion was seconded and carried unanimously. Mr. Traynham moved that the Board of Nursing revoke the nurse aide certification of Ann Marie Smith and to enter a finding of misappropriation of patient property against her in the 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.

ADJOURNMENT: The Board adjourned at 6:40 P.M.

Brenda Krohn, RN, MS
Deputy Executive Director