

**VIRGINIA BOARD OF NURSING
CRIMINAL BACKGROUND CHECK COMMITTEE
MINUTES**

September 16, 2015

TIME AND PLACE: The meeting of the Criminal Background Committee was convened at 2:00p.m. in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Henrico, Virginia.

MEMBERS PRESENT: Joyce Hahn, PhD, RN, NEA-BC, FNAP, President, Chairperson
William Traynham, LPN, CSAC, Vice-President
Jeanne Holmes, Citizen Member
Mark Monson, Citizen Member

STAFF PRESENT: Jodi P. Power, Deputy Executive Director
Stephanie Willinger, Deputy Executive Director
Brenda Krohn, Deputy Executive Director
Jay Douglas, Executive Director (joined later)

CALL TO ORDER: Dr. Hahn called the meeting to order at 2:00 p.m.

TOPICS DISCUSSED:

The Board of Nursing's Criminal Background Check (hereinafter "CBC") Committee met on September 16, 2015. During this initial meeting of the CBC Committee, the following items were discussed and reviewed:

Review of Committee's Charge:

Dr. Hahn reviewed the CBC Committee's charge: 1) To review the Board of Nursing's existing documents related to non-routine applications involving criminal convictions; and 2) Assess the need for changes in Board guidance related to the legislative mandate to conduct criminal background checks for registered nurses and licensed practical nurses.

Review of Proposed Frequently Asked Questions (FAQs) related to Criminal Background Checks:

The Committee reviewed the initial draft of CBC FAQs as presented by Ms. Willinger. The FAQs included in the draft were based upon information obtained by summer intern Lia Cullen, who surveyed students and faculty for information they indicated would be helpful to know about the CBC requirement during the licensure process, in addition to questions contained on

other states' websites on this topic. The CBC Committee recommendations for improvement included:

- to reorder questions and group them into identified categories (such as general information about the CBC requirements; the fingerprinting process; handling CBC results);
- to delete several questions deemed not applicable for this topic;
- to change wording on several consistent with Virginia law and process; and
- to add several new questions.

Staff will incorporate suggested changes to the draft FAQs. It was noted that answers to the FAQs have not fully been developed, since some will depend on the chosen vendor's process pending RFP review currently underway.

Ms. Douglas joined the meeting.

Review of Guidance Document 90-10:

The Committee reviewed existing Guidance Document 90-10 "Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement" and determined several items should be amended as noted in the attached Draft Revision. They include:

- Amending the stem and bullets in #2 to clarify staff can approve all misdemeanor convictions involving moral turpitude as long as such convictions are greater than 5 years old and all court requirements have been met.
- Replace bullet 3 verbiage to allow staff to approve "Convictions in a juvenile court".

Additional clean-up revisions were authorized to:

- Ensure the document applies to licensure, certification "and registration"
- Amend paragraph 2 to make consistent with the legal interpretation of Va. Code § 54.1-2408 disqualification for licensure, in that revocations/suspensions in other states that have been stayed on terms are not considered to be reinstated; thus cannot be issued a license in Virginia.

Review of Guidance Document 90-12:

The Committee reviewed existing Guidance Document 90-12 "Delegation of Authority to Board of Nursing RN Education and Discipline Staff", noting there was a need to review section II.D regarding Initial and Reinstatement Applicants (page 2) and sections II.G.4 and G.5 (page 5) regarding Confidential Consent Agreements (CCAs) based on unintentional falsification of applications and single misdemeanor convictions involving moral turpitude but unrelated to practice. After extensive discussion, the Committee determined it was part of public protection to put the public on notice of recent history of convictions that are cause for denial of licensure and the basis for disciplinary action on licensees pursuant to Va. Code §54.1-3007(4). Thus, the Committee recommends:

- No change will be made to page 2, section II.D. final bullet - which delegates cited staff the authority to offer a pre-hearing consent order (PHCO) to reprimand and approve an applicant [initial or reinstatement], if the applicant has only one misdemeanor conviction involving moral turpitude, that conviction is less than 5 years old, and the applicant has satisfied all court requirements, consistent with Guidance Document #90-10.
- Delete the section II.G.4. that authorizes cited staff to offer CCAs for unintentional falsification/fraud on employment and initial/reinstatement licensure applications. The rationale is that in reality applications are approved when determined an unintentional falsification of a prior application; additionally CCAs as authorized in law are not applicable to applications, but only disciplinary cases.
- No change be made to section II.G.5 last bullet - which authorizes cited staff the authority to offer a CCA to a licensee based upon a single misdemeanor conviction involving moral turpitude but unrelated to practice, with no other issues.

Review of Guidance Document 90-55:

The Committee reviewed existing Guidance Document 90-55, “Joint Statement of the Department of Health and Department of Health Professions on the Impact of Criminal Convictions on Nursing Licensure or Certification and Employment in Virginia”. The Committee recommends:

- For now, add a reference indicating that as of January 1, 2016, there will be a CBC requirement as a part of the licensure application process. It should direct readers to the website and FAQs regarding the CBC process and its impact on application processing.
- Once CBC vendor processes for fingerprinting, payment, CBC result handling and notifications are established, then further amend Guidance Document 90-55, Section I regarding Board of Nursing to include the established process and guiding information.

It is noted that amending this Guidance Document will require approval of the Department of Health, as well as the Board of Nursing, since it is a Joint Statement and Guidance Document.

Public Comment: There was no one present to make public comment.

Next Steps and Subsequent Meeting Dates and Activities:

Board staff summarized next steps would include making the recommended FAQ and Guidance Document revisions and providing them to the full Board meeting in November 2015. Guidance Document revisions will be considered for adoption by the Board at that time. Effective January 1, 2016, staff will begin collecting data on volume of CBC hits for RN and LPN applicants, including the number/percentage self-disclosed versus not revealed.

Future meeting dates of the CBC Committee are anticipated to be:

- Tuesday, January 26, 2016 – when the Committee will review a sampling of other states’ decision-making guidelines regarding criminal convictions (who have already implemented CBC requirements), to determine if Virginia should consider changes in guidance and further identify data collection needs.
- Tuesday, July 19, 2016 – when the Committee will consider 6 months of data collected after CBC implementation, to consider volume increase and if there is a need to propose changes in board processes or guidelines.

ADJOURNED: The meeting was adjourned at 3:05 p.m.

Jodi P. Power, Deputy Executive Director
Board Staff