

VIRGINIA BOARD OF NURSING
MINUTES
November 14, 2017

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on November 14, 2017 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Louise Hershkowitz, CRNA, MSHA; Vice President

BOARD MEMBERS PRESENT:

Marie Gerardo, MS, RN, ANP-BC; Secretary
Laura Freeman Cei BS, LPN, CCRP
Alice Clark, Citizen Member
Margaret J. Friedenberg, Citizen Member
Michelle D. Hereford, MSHA, RN, FACHE
Mark D. Monson, Citizen Member
Jennifer Phelps, LPN, QMHPA
Dustin Ross, DNP, MBA, RN, NE-BC

BOARD MEMBERS ABSENT:

Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President
Regina Gilliam, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Trula Minton, MS, RN
Rebecca Poston, PhD, RN, CPNP-PC

STAFF PRESENT:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Jodi P. Power, RN, JD; Senior Deputy Executive Director
Robin Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Stephanie Willinger; Deputy Executive Director
Linda Kleiner, RN, Discipline Case Manager
Paula B. Saxby, RN, PhD; Deputy Executive Director
Charlette Ridout, RN, MS, CNE; Senior Nursing Education Consultant
Ann Tiller, Compliance Manager
Huong Vu, Executive Assistant

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel
David E. Brown, DO, Department of Health Professions Director

IN THE AUDIENCE:

W. Scott Johnson, Medical Society of Virginia (MSV)
Sara Heisler, Virginia Hospital and Healthcare Association (VHHA)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Diana Gaston, Administrative Proceedings Division (APD) Staff
Holly Woodcock, Administrative Proceedings Division (APD) Staff

ESTABLISHMENT OF A QUORUM:

With 9 members present, a quorum was established.

ANNOUNCEMENTS: Ms. Hershkowitz welcomed Ms. Gaston and Ms. Woodcock as APD Staff to DHP.

Ms. Hershkowitz highlighted the announcements on the agenda and added that Grace Thapa, BSN, RN, PCCN, from Centreville, VA was appointed to the Board to serve an unexpired term beginning October 11, 2017, and ending June 30, 2019, to succeed Dr. Poston.

Ms. Douglas added that she has communicated with Ms. Thapa regarding attending this Board Business meeting and was told that Ms. Thapa already had prior commitment. Ms. Douglas noted that Ms. Thapa works at George Mason University with undergraduate nursing students and will be with the Board at its January 2018 meetings.

Ms. Douglas commented that due to personal and professional obligations, Dr. Poston decided to step back on commitments with Board work. Ms. Hershkowitz honored Dr. Poston for her invaluable service to the Board and hopes that Dr. Poston will return to the Board work at some point in the future.

UPCOMING MEETINGS: Ms. Hershkowitz noted the upcoming meetings on the agenda and added that if anyone is interested in attending the 2018 NCSBN Midyear meeting to let Ms. Douglas or Dr. Hahn know.

DIAGLOGUE WITH DHP
DIRECTOR:

Dr. Brown thanked Board members for active participation and service to the Board. He reminded Board members that they are here to represent the public and not here to represent their profession. He then provided the following information:

- ePrescribing Workgroup – 2017 legislation requires all opioid prescribing be done electronically by 2020. A wide range of groups came together to discuss implementation. The Workgroup looked at technological issues, software requirements, and exceptions.
- Secretary Hazel's Opioid Curriculum for healthcare providers Workgroup – tasked with developing a set of competencies for inclusion in curriculums for training health care providers in the safe prescribing, appropriate use of opioids and pain management. The Workgroup includes representatives from VCU, UVA, Germanna Community College, Hampton University, and Ms. Ridout from the Board. The curriculum is now at the Secretary Office and will be forwarded to the Governor.

Dr. Brown stated that the next step is to convene small group after Thanksgiving to look at funding for an online training tool. Additionally, another group will convene in December 2017 to look at competencies for non-prescribers such as nurses, PT's, OT's, and Social Workers.

Ms. Hershkowitz thanked Dr. Brown and Ms. Ridout for their participation.

Ms. Phelps added that Community Services Board (CSB) is implementing REVIVE training to people to recognize opioid overdose.

Mr. Monson inquired about resources for long term recovery. Dr. Brown stated that currently Virginia is trying to decrease opioid prescribing, expanding treatment, and expanding coverage for Peer Recovery Specialists.

Ms. Phelps commented that she sees more collaboration in which Peer Recovery Navigators come to Detox centers to talk to clients.

Ms. Hershkowitz thanked Ms. Phelps for her work and insights shared with the Board. Ms. Hershkowitz thanked Dr. Brown for the update.

ORDERING OF AGENDA: Ms. Hershkowitz asked staff to provide additions and/or modifications to the Agenda.

Ms. Douglas indicated the following items have been added and/or modified to the agenda for Board consideration:

- First Half of 2018 Informal Conference Schedule has been added
- Education Informal Conference Committee November 8, 2017 Minutes and Recommendations has been added
- Two additional Consent Orders have been added

Ms. Krohn added the following:

- On Wednesday, November 15, Formal Hearings for Panel A have been cancelled due to lack of Board Members' participation.
- On Wednesday, November 15, Panel B – Pamela Jane Sharp, CNS (#15) plans to appear for consideration of the Agency Subordinate recommendation. Written responses have been received from Lorraine Mulcahy Oliver, RN (#1) and Marianne Phelan Stewart (#9) for consideration of the Agency Subordinate recommendations.
- Tamara Cunningham, RN has signed Consent Order (CO), if the Board accepts her CO, then her Formal Hearing scheduled for 9:30 am on Thursday, November 16, will be cancelled. Ms. Friedenbergl replaces Ms. Hereford.

Ms. Power added that Stratford University Falls Church Baccalaureate Degree Registered Nursing Education Program plans to appear and address the Board regarding the Education Special Committee recommendations.

CONSENT AGENDA: The Board did not remove any items from the consent agenda.

Mr. Monson moved to accept the consent agenda as presented. The motion was seconded and carried unanimously.

Minutes:

July 17, 2017 Panel – Dr. Hahn
July 18, 2017 Quorum – Dr. Hahn
July 19, 2017 Panel – Dr. Hahn
July 19, 2017 Panel – Ms. Hershkowitz
July 20, 2017 Panel – Ms. Hershkowitz

Reports:

Agency Subordinate Tracking Log
Finance Report as of June 30, 2017
Board of Nursing Monthly Tracking Log
Health Practitioners Monitoring Program Reports

REPORTS:

Executive Director Report:

Ms. Douglas noted that Board staff have been busy with presentations, internally and externally, and with the Enhanced Nurse Licensure Compact (eNLC) implementation. She provided the following:

- Ms. Douglas will be presenting the eNLC training to Board Members in January 2018 meeting.
- The eNLC currently is in a six-month transition of implementing governance and policy issues. Ms. Douglas noted that Ms. Willinger, Ms. Baskins, Ms. Tiller and Mr. Gallini are primarily staff who have been involved in the preparation for implementation. She thanked them for their hard work.
- NCSBN has communicated to licensees, employers, and educators about the eNLC implementation through letters/flyers.
- Ms. Douglas encouraged everyone to go to the Board website for updated information.
- Four States (Colorado, Rhode Island, New Mexico, and Wisconsin), current NLC States, have no legislation in place to join the new version of the NLC. However, New Mexico and Wisconsin are working on legislation to join the new version.
- Licenses issued during the six-month transition period (7/20/17 – 1/19/18) will be reviewed come January 2018 to make sure they meet the new uniform licensure requirements. Board staff are tracking these licenses.
- Nurses issued a license with multistate privilege prior to July 20, 2017 will be grandfathered.

Ms. Hereford asked the rationale for states not joining the Compact. Ms. Douglas responded that the reasons varied for states not being supportive of the legislation.

NCSBN Leadership and Public Policy October 11-12, 2017 Conference report:

Ms. Hershkowitz noted that written report was submitted by Dr. Hahn and reiterated the three “take aways” from the report.

Guidance Document 90-57 (Bylaws) Committee September 20, 2017 Meeting Minutes and Proposed Changes to GD 90-57:

Ms. Hershkowitz reviewed the minutes and proposed changes to GD 90-57. She noted that Board Counsel has also reviewed the changes.

Ms. Douglas added that Section B in Article XII will be move to GD 90-12 and the Code in Section A in Article XIII will need to be changed once the eNLC is implemented on January 19, 2018.

Ms. Gerardo move to accept the minutes, approve the amendments of the GD 90-57 as proposed by the Committee, and authorize Board Staff to revise Article XIII of the GD 90-57 when needed. The motion was seconded and carried unanimously.

Appointment of Nominating Committee:

Ms. Hershkowitz asked for volunteers to serve on the Nominating Committee. Dr. Ross, Mr. Monson, and Ms. Hereford volunteered. Ms. Douglas noted that the Committee will meet after the Board Business meeting.

Guidance Document 90-6 (PICC Line Insertion and Removal) Committee July 18, 2017 Meeting Minutes and Proposed Amendments to GD 90-6:

Ms. Hershkowitz reported that the Committee reviewed the GD 90-6 as well as Board Counsel and all feedback has been included in the draft for Board consideration.

Mr. Monson moved to accept the minutes and to adopt the amendments to GD 90-6 as presented. The motion was seconded and carried unanimously.

RECESS: The Board recessed at 10:06 AM

RECONVENTION: The Board reconvened at 10:15 AM

PRESENTATION FROM
GILES COUNTY PN
STUDENTS:

Ms. Ridout introduced students Tiler Smith, Samantha Stanley and faculty member Heidi Sizemore Students from Giles County Practical Nursing Program. Ms. Ridout noted that Mr. Smith and Ms. Stanley competed at the state and international HOSA Leadership Conference and took first place at each for their community awareness project. Students and faculty member Heidi Sizemore completed a community awareness project on the dual

diagnosis of mental illness and substance abuse and are here to present to the Board. Written handout was provided also.

Ms. Hershkowitz thanked students and faculty member for their work and encouraged students to be involved in the work of the Board.

REPORTS (Cont.):

Nurse Aide Curriculum Committee September 21, 2017 Meeting Minutes:

Dr. Saxby reported that the Committee continues to meet to review curriculum chapter by chapter. The Committee will meet again today after the Board Business meeting.

Dr. Ross moved to accept the Nurse Aide Curriculum Committee September 21, 2017 Meeting minutes. The motion was seconded and carried unanimously.

The Committee of the Joint Boards of Nursing and Medicine October 11 Business Meeting, Formal Hearing, and Informal Conference Minutes:

Ms. Hershkowitz stated the minutes are presented for Board consideration.

Mr. Monson moved to accept the Committee of the Joint Boards of Nursing and Medicine October 11, 2017 minutes. The motion was seconded and carried unanimously.

OTHER MATTERS:

Board Counsel Update:

Ms. Mitchell stated that the Board has no appeals pending and she has nothing to report.

She commented that she serves on the Healthcare Task Force who put together an article regarding opioids in the VA Lawyers which was published in October 2017. Mr. Monson thanked Ms. Mitchell for all the work that she does.

Appointments of new Board Member to CORE Committee, Discipline Committee, and the Committee of the Joint Boards of Nursing and Medicine:

Ms. Douglas provided background information regarding CORE Committee noting that Ms. Minton is the only member left on this Committee. She added that Dr. Hahn will appoint additional members at the January meeting.

Ms. Douglas said that the Discipline Committee will be changed to a Ad Hoc Committee starting 2018 and will meet as needed. She asked Board members to consider volunteering for this Committee and Dr. Hahn will appoint members at the January meeting also.

Ms. Hershkowitz reported that Dr. Hahn asked her to share that Dr. Hahn will replace Dr. Poston on the Committee of the Joint Boards with Ms. Hershkowitz and Ms. Gerardo.

Ms. Douglas noted that staff try to scheduled committee meetings after the Board Business meetings on Tuesday so that Board Members do not have to come to the Board on additional days.

2018 Board Meeting Dates:

Ms. Douglas said that 2018 Board Meeting Dates are provided and noted unusual dates as some are not always on the third week of the month, due to room availability and Holidays. She added that Ms. Vu will continue to check on room availability and notify her for possible date changes for the November 2018 meetings.

First Half of 2018 Informal Conference Schedule:

Ms. Krohn stated that staff have put together the Informal Conference schedule based on the Board Members' first choice. She noted that the Education Special Committee Conferences and the Committee of the Joint Boards of Nursing and Medicine meetings are also included on the list.

Ms. Douglas noted that Dr. Ross is the only member on the Special Conference Committee E (SCC-E) since Dr. Poston resigned. She added that Dr. Hahn will appoint another member for SCC-E.

EDUCATION:

**Education Special Conference Committee November 8, 2017
Recommendation regarding Stratford University Falls Church
Baccalaureate Degree Registered Nursing Education Program:**

Ms. Gerardo chaired the meeting.

Representatives from Stratford University Falls Church BSN accompanied by Stephen Chema, legal counsel, appeared and addressed the recommendations of the Education Special Conference Committee to the Board.

Ms. Hershkowitz, Mr. Monson, Dr. Saxby, Ms. Ridout, and Ms. Power left the meeting at 11:02 A.M.

CLOSED MEETING:

Mr. Phelps moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 11:02 A.M. for the purpose of deliberation to consider the recommendations of the Education Special Conference Committee regarding Stratford University Falls Church BSN. Additionally, Ms. Phelps moved that Ms. Douglas, Dr. Hills, Ms. Krohn, Ms. Willinger, Ms. Kleiner, Ms. Tiller, Ms. Vu, and Ms. 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 11:13 A.M.

Ms. Phelps 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.

Dr. Ross moved to accept the November 8, 2017 recommended Order of the Education Special Conference Committee to withdraw the approval of Stratford University Falls Church BSN to operate a baccalaureate registered nursing education program. The motion was seconded and passed unanimously.

RECESS: The Board recessed at 11:15 AM

RECONVENTION: The Board reconvened at 11:25 AM

Ms. Hershkowitz, Mr. Monson, Dr. Saxby, Ms. Ridout, and Ms. Power re-joined the meeting at 11:25 A.M.

Mr. Hershkowitz resumed as Chair.

PUBLIC HEARING: The Board received no comment.

EDUCATION (Cont.): **Education Special Conference Committee November 8, 2017 Minutes and Recommendations:**

Ms. Gerardo moved to accept the Education Special Conference Committee November 8, 2017 minutes and recommendations as presented. The motion was seconded and carried unanimously.

Education Staff Report:

Dr. Saxby reported issues of National Nurse Aide Assessment Program (NNAAP) exam for Virginia noting turnover of the Program Director at PearsonVUE, three times already, and exams are not always scheduled within 30 days as stated in the contract. Dr. Saxby noted that PearsonVUE has had long good track record until this transition.

Ms. Hershkowitz asked if there is alternate other than PearsonVUE. Dr. Saxby said that NCSBN owns NNAAP exam and has a sole contract with PearsonVUE. She added that if the Board goes with another contractor then it would be a different exam. Dr. Saxby commented that she is not sure if Red Cross has nurse aide exam.

Ms. Douglas asked Dr. Saxby to contact DHP Procurement regarding the matter.

Ms. Ridout reported that Averett University and Rappahannock Community College Programs recently participated in community outreach regarding issues such as opioid crisis and immunization.

LEGISLATION/
REGULATION:

Ms. Douglas reported the following on behalf of Ms. Yeatts:

Status of Regulatory Action:

Ms. Douglas reviewed the chart of regulatory actions, as provided in written handout, noting Board of Medicine will convene a Regulatory Advisory Panel on the laser hair removal on November 20, 2017 and Dr. Selig, former Board President, was asked to be on the Panel.

NOIRA for Eliminating of a Separate Prescriptive Authority License:

Ms. Douglas stated that the Boards of Nursing (BON) and Medicine have discussed the elimination of separate license for prescriptive authority for nurse practitioners. She noted that there is no provision in the Code to require a separate license. She added that the recommendation of the Committee of the Joins Boards for the adoption of a NOIRA to begin the regulatory process for elimination of a separate prescriptive authority license is presented for Board consideration. Mr. Monson moved to adopt the recommendation as presented. The motion was seconded and passed unanimously.

Adoption of Final Regulations – Accreditation of RN Education Programs:

Ms. Douglas stated that the final amendments identical to the proposed regulations are presented for Board consideration, noting that no public comment was received. Mr. Monson moved to adopt the final amendments identical to the proposed regulations as presented. The motion was seconded and passed unanimously.

Adoption of Final Regulations – Name Tag Requirement:

Ms. Douglas stated that the final regulations identical to amendments to 18VAC90-9-50 are presented for Board consideration. Mr. Monson moved to adopt the final regulations identical to amendments to 18VAC90-9-50 as presented. The motion was seconded and passed unanimously.

Report on Legislative Proposal for 2018:

Ms. Douglas reported that seven legislative proposals from DHP will be presented, only one will directly impact the Board of Nursing which is a clarification to allow for electronic renewal notice. She shared the legislative process and noted that Ms. Yeatts will have a more detailed report at the January Board meeting.

CONSIDERATION OF CONSENT ORDERS:

CLOSED MEETING: Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 11:57 A.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Gerardo moved that Ms. Douglas, Ms. Power, Dr. Hills, Ms. Krohn, Ms. Willinger, Dr. Saxby, Ms. Ridout, Ms. Kleiner, Ms. Tiller, Ms. Vu, and Ms. 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 12:00 P.M.

Ms. Gerardo 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.

Virginia Burcham Miilu, RN 0001-138014

Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of Virginia Burcham Miilu's license to practice professional nursing in the Commonwealth of Virginia. The suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Lubov Andrea Smith, RMA 0031-008651

Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of Lubov Andrea Smith's registration to practice as medication aide in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Norfolk State University Accelerated Baccalaureate Degree Registered Nursing Education Program – Program Code: US28500100

Mr. Monson moved to accept the consent order to withdraw the approval of Norfolk State ABSN to operate a registered nursing education program. Said withdrawal is stayed, and Norfolk State ABSN is continued on Conditional Approval for not less than two years, subject to terms and conditions. The motion was seconded and carried unanimously.

Felicia Eloise Hall, LPN 0002-091453

Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of Felicia Eloise Hall's license to practice practical nursing in the Commonwealth of Virginia. The suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Deborah Brody, RN 0001-263553

Mr. Monson moved to accept the consent order to reinstate the license of Deborah Brody to practice professional nursing in the Commonwealth of Virginia without restriction. The motion was seconded and carried unanimously.

Beverly Sue Jacks, RN 0001-204498

Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of Beverly Sue Jacks' license to practice professional nursing in the Commonwealth of Virginia. The suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Tamara Joi Cunningham, RN 0001-189185

Mr. Monson moved to accept the consent order to indefinitely suspend the right of Tamara Joi Cunningham to renew her multistate privilege to practice professional nursing in the Commonwealth of Virginia for a period of not less than two years from date of entry of the Order. The motion was seconded and carried unanimously.

ADJOURNMENT:

The Board adjourned at 12:05 P.M.

Joyce Hahn, PhD, RN, NEA-BC, FNAP
President