

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
BUSINESS MEETING MINUTES
October 11, 2017**

- TIME AND PLACE:** The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 9:00 A.M., October 7, 2017 in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- MEMBERS PRESENT:** Louise Hershkowitz, CRNA, MSHA; Chair
Marie Gerardo, MS, RN, ANP-BC
Kevin O'Connor, MD
Kenneth Walker, MD
- MEMBERS ABSENT:** Lori Conklin, MD
Rebecca Poston, PhD, RN, CPNP
- ADVISORY COMMITTEE MEMBERS PRESENT:**
Kevin E. Brigle, RN, NP
Wendy Dotson, CNM, MSN
Sarah E. Hobgood, MD
Thokozeni Lipato, MD
Stuart F. Mackler, MD
- STAFF PRESENT:** Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director; Board of Nursing
Jodi P. Power, RN, JD; Senior Deputy Executive Director; Board of Nursing – **joined at 9:40 A.M.**
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice; Board of Nursing
Huong Vu, Executive Assistant; Board of Nursing
- OTHERS PRESENT:** Charis Mitchell, Assistant Attorney General; Board Counsel
David Brown, DC; Director; Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
William L. Harp, MD, Executive Director; Board of Medicine – **joined at 9:15 A.M.**
- IN THE AUDIENCE:** W. Scott Johnson, Medical Society of Virginia (MSV)
Mary Duggan, American Association of Nurse Practitioners (AANP)
Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
- INTRODUCTIONS:** Committee members, Advisory Committee members and staff members introduced themselves.
- ESTABLISHMENT OF A QUORUM:** Ms. Hershkowitz called the meeting to order and established the quorum was present.

Virginia Board of Nursing
Committee of the Joint Boards of Nursing and Medicine Minutes
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ANNOUNCEMENT: Ms. Hershkowitz welcomed and introduced Dr. Hills as the Deputy Executive Director for Advanced Practice for the Board of Nursing.

Ms. Hershkowitz welcomed Dr. O'Connor to the Committee of the Joint Boards of Nursing and Medicine. She added that Dr. O'Connor replaced Dr. Reynolds. She hopes that Dr. O'Connor will enjoy being on the Committee. She stated her appreciation of Dr. Reynolds for his service.

Ms. Hershkowitz also welcomed Dr. Lapito as the Physician member on the Advisory Committee to the Committee of the Joint Boards of Nursing and Medicine. Dr. Lapito shared his background information with the Committee.

Ms. Douglas noted that Dr. Poston recently resigned her appointment at the Board of Nursing. She added that Dr. Hahn, Board of Nursing President, will appoint a new member to replace Dr. Poston on the Committee of the Joint Boards of Nursing and Medicine. Ms. Hershkowitz thanked Dr. Poston for her service.

REVIEW OF MINUTES: The minutes of June 7 Special Conference Committee and Business Meeting, were reviewed. Ms. Gerardo moved to accept all the minutes as presented. The motion was seconded and passed unanimously.

PUBLIC COMMENT: Mary Duggan, American Association of Nurse Practitioners (AANP), asked for clarification regarding "*tramadol*" on page 3 of the June 7 Business Meeting minutes where it stated "While "*tramadol*" is an opioid type of drug, it was determined that it will be kept in 18VAC90-40-160(C), 18VAC90-40-190(D), and 18VAC90-40-270(D)".

Ms. Hershkowitz thanked Ms. Duggan for her comment and added the Committee will take into consideration her comment.

DIALOGUE WITH AGENCY DIRECTOR: Dr. Brown reported the following on the two opioid bills that were passed by the 2017 General Assembly:

- Electronic prescription of opioids will begin July 1, 2020 and the Workgroup was established and convened to look at New York Board's model. The Workgroup concluded the following:
 - Acknowledged the crisis of opioid abuse
 - Technology is a big issue since less than 10% of practitioners use electronic prescribing
 - Agreed with the effective date of 2020
 - Identified exemptions for people who are not required to prescribe electronically
- The Secretary of Health and Human Resources convened a workgroup that includes experts to establish common curriculum for training health care providers in the safe prescribing and appropriate use of opioids and pain management. The initial meeting was held on May 19, 2017 and

Subcommittees were established in the areas of pain management, recognition and treatment of addiction, and developing essential curricula. The next step is to establish a Workgroup of non-prescribers by the end of October 2017.

- Early Prescriptive Monitoring Program (PMP) data has shown a downward trend of numbers of opioid prescribed since regulations for prescribing opioid for pain management went into effect in March 2017.

Dr. Lipato noted that there are no valid pain assessment tools available to clinicians that measure a patient's functionality instead of or in addition to the pain scale. Dr. Brown stated that more current pain assessment tools are needed in order to get prescribers away from using pain scale alone when developing pain management plans of care.

Dr. O'Connor asked how pain medications are tracked in the PMP. Dr. Brown said that PMP has in place a system to track numbers of prescriptions filled. Dr. Brown added that currently Veterinarians are not required to report to PMP when prescribing opioids, but they do report when dispensing opioids; however, the Board of Veterinary Medicine did implement a guideline aimed at decreasing the prescribing of opioids.

OLD BUSINESS:

Regulatory Update:

Ms. Yeatts reviewed the chart of regulatory actions, as provided in written handout, noting that the comment period for NOIRA for supervision and direction of laser hair removal will end November 1, 2017. She added that comments have already been received. She stated that the regulations for nurse practitioners will need to be amended to define "direction and supervision" and the next task is to convene a Committee with all three professions to establish proposed language.

Ms. Hershkowitz asked what the three professions are. Ms. Yeatts said Physicians, Physician Assistants, and Nurse Practitioners.

NOIRA for Eliminating of a Separate Prescriptive Authority License:

Ms. Yeatts stated that the Board of Nursing (BON) and Medicine have discussed the elimination of separate license for prescriptive authority for nurse practitioners. She added that there is no provision in the Code to require a separate license. She noted that the languages of both regulations (Regulations Governing the Licensure of Nurse Practitioners and Regulations for Prescriptive Authority for Licensed Nurse Practitioners) will be combined. She said that the action to implement elimination must be regulatory and begin with a Notice of Intended Regulatory Action (NOIRA).

Ms. Hershkowitz asked Ms. Douglas to provide background information regarding this action. Ms. Douglas reminded members of Ms. Willinger written report submitted at a prior meeting and noted that administratively, this is less burdensome and more efficient for applicants. Additionally, Ms. Douglas added

that the two separate licenses created confusion for the public. Ms. Douglas noted that the Committee did not see any disadvantage for this action.

Dr. O'Connor moved to recommend to the BON and BOM the adoption of a NOIRA to begin regulatory process for elimination of a separate prescriptive authority license. The motion was seconded and passed unanimously.

NEW BUSINESS:

Board of Nursing Executive Director Report:

Ms. Douglas reported the following:

- New APRN Compact has been developed and three States (South Dakota, Wyoming, and Idaho) have adopted. Virginia current laws and regulations are a barrier to Virginia joining.
- Veteran Affairs - NCSBN is doing work with Veteran's Affairs Administration regarding expanding the scope of practice of APRNs and Board's access to information necessary for investigations.
- The New Enhanced Nurse Licensure Compact (eNLC) for RN's and LPN's only - went into effect on July 20, 2017 and is scheduled to be implemented on January 19, 2018. The eNLC establishes uniform licensure requirements and no Multi-State Privilege (MSP) license is issued if an individual does not meet these requirements. Additionally, a MSP license from another compact state can be the basis for an NP license.

ePrescribing Workgroup Update

Ms. Douglas stated that this was provided by Dr. Brown earlier.

BHP Report

Ms. Douglas highlighted actions taken by the BHP at its last meeting noting that the Board accepted the recommendation of the Regulatory Research Committee to not license Certified Anesthesiology Assistants (CAAs.)

Resignation of Cathy A. Harrison, DNAP, MSN, CRNA, Committee of the Joint Boards Advisory

Ms. Douglas noted that Dr. Harrison was with the Committee for a short time. She added that Dr. Harrison was hired by DHP as Investigator. Ms. Hershkowitz thanked Dr. Harrison for her service.

Appointment of Joint Boards CRNA Advisory Committee Member – Recommendation of Colonel Janet Setnor from VANA:

Ms. Hershkowitz stated that Colonel Setnor's Biography and CV are presented for the Committee consideration and action for the CRNA position on the Advisory Committee to replace Dr. Harrison.

Dr. Walker moved to accept the appointment of Colonel Setnor for the CRNA position on the Advisory Committee. The motion was seconded and passed.

2018 Committee of the Joint Boards of Nursing and Medicine Dates

Ms. Hershkowitz stated that Ms. Vu provided the 2018 Committee Dates handout for information only. Ms. Douglas reminded the Committee Members to hold those dates either for meetings or hearings.

Dr. Walker asked how Dr. Hills' position fits within the Board of Nursing. Ms. Douglas stated that the previous Deputy Executive Director's position had been vacant for a year. Ms. Douglas said that she reviewed the structure and organization of the Board and decided to focus the position with someone who is knowledgeable about advanced practice. Ms. Douglas noted that Dr. Hills is a lead staff person related to discipline for nurse practitioners and a point of contact for external inquiry about nurse practitioners. Ms. Douglas added that Dr. Hills will also be involved in probable review for nursing cases and will oversee the Compliance Division. Dr. Hills shared her background information with the Committee.

Ms. Dodson informed the Committee that there are few Midwife Programs for a non-nurse with Certified Midwife (CM) degrees in the United States, not Certified Nursing Midwife (CNM) degrees. She added that this group has inquired about the practicing of CMs in Virginia without CNM degree. She asked if the Committee would like for them to present at the Committee's meeting in December. She clarified that this group was not the Certified Professional Midwives (CPM's) regulated by the Board of Medicine.

Ms. Yeatts stated that the Code of VA would have to be changed to regulate a new profession. Ms. Yeatts said that Ms. Dodson may wish to contact BHP which is an advisory Board to the Department as it conducts studies on the need for regulation of professions. Ms. Douglas added that the contact person at BHP is Dr. Carter.

Dr. Brown reminded the Committee regarding the public comment about "tramadol". Ms. Hershkowitz asked Ms. Yeatts to clarify further. Ms. Yeatts noted that the minutes referencing "tramadol" were in error and suggested to amend the minutes to read "***While tramadol is an opioid type of drug, it was determined that it will be kept in 18VAC90-40-160(C), 18VAC90-40-190(D), and 18VAC90-40-270(D).***" Ms. Gerardo moved to amend the June 7 Business Meeting minutes as suggested by Ms. Yeatts. The motion was seconded and passed unanimously.

Members of the Advisory Committee, Dr. Brown, Ms. Yeatts left the meeting at 9:50 AM.

RECOMMENDATIONS AND CONSENT ORDER FOR CONSIDERATION

CLOSED MEETING: Ms. Gerardo moved that the Committee of the Joint Boards of Nursing and Medicine and the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 9:50 A.M. for the purpose of

deliberation to consider Agency Subordinate recommendations and Consent Order. Additionally, Ms. Gerardo moved that Ms. Douglas, Dr. Hills, Ms. Power, 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 Committee in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Committee reconvened in open session at 10:20 P.M.

Ms. Gerardo moved that the Committee of the Joint Boards of Nursing and Medicine and 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.

Nicole Renee Cofer, LNP 0024-168302

Dr. O'Connor moved to accept the Agency Subordinate recommendation to reprimand Nicole Renee Cofer and to indefinitely suspend her license to practice as a nurse practitioner in the Commonwealth of Virginia. The suspension shall be stayed upon proof of Ms. Cofer's re-entry into a Contact with the Virginia Health Practitioners' Monitoring Program (HPMP) and comply with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was seconded and carried unanimously.

Heather Kiser Duty, LNP 0024-000084 and Authorization to Prescribe 0017-136873

Dr. O'Connor moved to modify the Agency Subordinate recommendation to indefinitely suspend the license Heather Kiser Duty to practice as a nurse practitioner and the Authorization to Prescribe in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Paul M. Colton, LNP 0024-170972 and Authorization to Prescribe 0017-141527

Ms. Gerardo moved to accept the consent order of reinstatement the license of Paul M. Colton to practice as a nurse practitioner in the Commonwealth of Virginia without restriction. The motion was seconded and passed unanimously.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 10:25 A.M.

Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director