

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
January 31, 2019**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 9:05 A.M. on January 31, 2019 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Louise Hershkowitz, CRNA, MSHA, President
Marie Gerardo, MS, RN, ANP-BC, Second Vice President
Dixie McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Mark D. Monson, Citizen Member

STAFF PRESENT:

Jay Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director
Jodi P. Power, RN, JD, Senior Deputy Executive Director
Sylvia Tamayo-Suijk, Discipline Team Coordinator

OTHERS PRESENT:

Charis Mitchell, Assistant Attorney General, Board Counsel
Nurse Aide Students from Southside Virginia Community College
Senior Nursing Students from Rappahanock Community College

ESTABLISHMENT OF A PANEL:

With five members of the Board present, a panel was established.

FORMAL HEARINGS:

Desiree M. Lewis, LPN **0002-087689**
Ms. Lewis appeared, accompanied by her attorney, Nathan Mortier.

Tammie Jones, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Kim Taylor, court reporter with Farnsworth & Taylor Reporting LLC, recorded the proceedings.

Dwayne Cromer, Senior Investigator, Department of Health Professions Enforcement Division, was present and testified.

CLOSED MEETING:

Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(16) of the *Code of Virginia* at 9:40 A.M., for the purpose of consideration and discussion of medical records of Ms. Lewis that are excluded from the Freedom of Information Act by Virginia Code Section 1 of 2.2-3705.5. Additionally, Ms. Gerardo moved that Ms. Douglas, Ms. Power, Ms. Tamayo-Suijk, Ms. Mitchell, Ms. Jones, Ms. Lewis, Mr. Mortier and Ms. Taylor, court reporter, 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 10:18 A.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.

CLOSED MEETING: Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:48 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Lewis. Additionally, Ms. Gerardo moved that Ms. Douglas, Ms. Power, Ms. Tamayo-Suijk, Ms. Mitchell, Board counsel, 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 11:00 A.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.

ACTION: Mr. Monson moved the Board of Nursing dismiss the case due to a lack of clear and convincing evidence of a violation of laws and regulations governing nursing 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 11:05 A.M.

Ms. Tamayo-Suijk left the meeting.

RECONVENTION: The Board reconvened at 11:20 A.M.

Ms. Tamayo-Suijk joined the meeting at 11:25 A.M.

FORMAL HEARINGS: **Noelle Jennifer Black, RN** **0001-139473**
Ms. Black did not appear.

Tammie Jones, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Kim Taylor, court reporter with Farnsworth & Taylor Reporting LLC, recorded the proceedings.

Steve Keene, Senior Investigator, Department of Health Professions, Krystal Breeden, neighbor of respondent, Kevin Wolfe, Senior Investigator, Department of Health Professions, Joshua Boggan, Case Intake Manager, Department of Health Professions, Christine Shaw, RN, Novant Health UVA Prince William Medical Center, and Shelby Magyar, RN, Assistant Nurse Manager, Emergency Department Novant Health UVA Prince William Medical Center, were present and testified.

CLOSED MEETING: Ms. Gerardo moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 12:08 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Black. Additionally, Ms. Gerardo moved that Ms. Douglas, Ms. Power, Ms. Tamayo-Suijk, Ms. Mitchell, Board counsel, 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 12:45 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.

Mr. Monson 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. McElfresh moved that the Board of Nursing indefinitely suspend the license of Noelle Jennifer Black to practice professional nursing in the Commonwealth of Virginia with the suspension stayed contingent upon her entry into the Health Practitioners' Monitoring Program (HPMP) and remaining in compliance thereafter. 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 12:48 P.M.

Jay Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director