

VIRGINIA BOARD OF NURSING
MINUTES
July 18, 2017

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on July 18, 2017 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Joyce A. Hahn, PhD, RN, NEA-BC, FNAP; President

BOARD MEMBERS PRESENT:

Louise Hershkowitz, CRNA, MSHA; Vice President
Marie Gerardo, MS, RN, ANP-BC; Secretary
Guia Caliwagan, RN, MAN, EdS
Alice Clark, Citizen Member
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Jennifer Phelps, LPN, QMHPA
Rebecca Poston, PhD, RN, CPNP-PC
Dustin Ross, DNP, MBA, RN, NE-BC

BOARD MEMBERS ABSENT:

Regina Gilliam, LPN
Jeanne Holmes, Citizen Member
Kelly McDonough, DNP, RN
William Traynham, LPN, CSAC

STAFF PRESENT:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Brenda Krohn, RN, MS; Deputy Executive Director
Jodi P. Power, RN, JD; Deputy Executive Director
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
Huong Vu, Executive Assistant

OTHERS PRESENT:

James Rutkowski, Assistant Attorney General, Board Counsel
Lisa Hahn, Department of Health Professions Chief Deputy
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

IN THE AUDIENCE:

Becky Bower-Lanier, VA Chapter of American Massage Therapy Association (AMTA)
W. Scott Johnson, Medical Society of Virginia (MSV)
Richard Grossman, Virginia Association of Certified Nurse Practitioners (VCNP)
Pam Crowder, Graduate Student at George Mason University
Monica DeJesus, Board Staff
Lakisha Goode, Board Staff

ESTABLISHMENT OF A QUORUM:

With 10 members present, a quorum was established.

ANNOUNCEMENTS: Dr. Hahn noted the announcements on the Agenda. Ms. Douglas welcomed Ms. DeJesus and Ms. Goode as new staff.

UPCOMING MEETINGS: Dr. Hahn noted the upcoming meetings on the agenda. Ms. Douglas added that Ms. Phelps will not be able to attend the NCSBN Annual Meeting in August 2017.

DIAGLOGUE WITH DHP DIRECTOR:

Lisa Hahn, DHP Chief Deputy, provided the following information on behalf of Dr. Brown:

- DHP now has a new policy regarding disciplinary proceedings per guidance from the Office of Attorney General (OAG) stating that Adjudication Specialist who sits in closed meeting at the informal conference is not going to be representing the Commonwealth at the formal hearing, a new Adjudication Specialist will be assigned to the case going to formal hearing. This does not affect informal conference conducted by Agency Subordinates since there is no closed meeting.
- The Per Diem for Board Members has been reinstated and went into effect on July 1, 2017.

Lisa Hahn thanked Board Members for their service.

ORDERING OF AGENDA: Dr. Hahn 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:

- Public Hearing regarding is scheduled at 10 am regarding regulations for the licensure and practice of massage therapists
- Board retreat for September 2017 meeting
- Board appeals update has been removed
- An additional Consent Order regarding Kristin Tucker Tharpe, RN has been added

Ms. Krohn added the following:

- On Wednesday, July 19, Panel A – Comfort Owusu Agyei, CNA (#9) and Jason Catalan, RN (#37) plan to attend for consideration of the Agency Subordinate recommendations. The Formal Hearings of Puckett, and Mitchell have been continued.
- On Wednesday, July 19, Panel B – Charles Jude Johnson, RN (#28) plans to attend for consideration of the Agency Subordinate recommendations.

- The Formal Hearings for Hypes has been continued on Thursday, July 20, 2017. Ms. Gerardo will chair Murphy's formal hearing since Ms. Hershkowitz is conflicted.

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:

May 15, 2017	Panel - Dr. Hahn
May 16, 2017	Quorum – Dr. Hahn
May 17, 2017	Panel A – Dr. Hahn
May 17, 2017	Panel B – Ms. Gerardo
May 18, 2017	Panel – Ms. Gerardo
June 15, 2017	- Telephone Conference Call

Reports:

Agency Subordinate Tracking Log
Finance Report for May 2017
Nursing Monthly Tracking Log-Licensure and Disciplinary Statistics
Health Practitioners Monitoring Program as of May 31, 2017

REPORTS:

Executive Director Report:

Ms. Douglas highlighted the following from her written report:

- The NCSBN Executive Officer (EO) Summit in May 2017 – a meeting for Executive Directors that Ms. Douglas attended. Highlights of the meeting were:
 - ❖ As result of BREXIT, nurses are going back home. England is entering international market and it is difficult for international nurses to get licenses in England due to specific practice hour requirements.
 - ❖ There is a large turnover of Executive Directors (EDs) in many U.S. jurisdictions, two-third of the EDs have been on the job for five years or less. NCSBN has a mentoring program in place to assist EDs across the U.S. jurisdictions. A session led by David Benton, NCSBN Executive Officer, addressed updating of Executive Officer Competencies.
 - ❖ Anna Polyak, JD, RN, AANA, presented about CRNA legislation nationally and policy making, identified challenges and opportunities faced by the states particularly related to trends toward deregulation and consolidation of Boards.
 - ❖ Greg Harris spoke about technology changing practice noting that Boards need to keep pace as legislation evolving and keep focus on public protection.

- Dr. Silverman, HPMP CEO, met with Ms. Douglas on June 28, 2017 and the outcomes were:
 - ❖ HPMP's willingness to provide training for new Board members to review Substance Abuse/Chemical Dependency /Mental Health issues,
 - ❖ HPMP's willingness to do annual review and update
 - ❖ Recommendations were made to HPMP regarding initial contact with respondents to be sure respondents have a clear understanding of what they are expected to complete and the financial expenses.
- Ms. Douglas and Dr. Harp, Board of Medicine Executive Director, were invited to a meeting with Delegate Robertson and key nurse practitioner stakeholder group on June 30, 2017:
 - ❖ Nurse Practitioners' scopes of practice and barriers to changes
 - ❖ Function of the Joint Boards and how it works
- New version of the Nurse Licensure Compact (NLC) is anticipated to occur this Fall. Seven states not formerly in the NLC have passed legislation to join the new compact when it goes into effect. Ms. Douglas informed the Board of the impact of lost revenues due to this new compact. Data was asked to run an initial report which showed a loss of approximately 5,000 nurses (RNs and LPNs) which estimates to be about \$627,000.00 loss of revenue. This number represents Virginia licensees with an address in those states. New states joining the eNLC will identify the number of licensees with addresses in Virginia. Ms. Douglas noted that when the Board joined the Compact in 2005, the Board lost about 11,000 nurses and within a month the number stabilized as nurses became licensed based on primary state of residence.
- Interviews are scheduled on July 25 and 27, 2017 for the Deputy Executive Director for Advance Practice position.
- NCSBN has worked closely with national certifying bodies to make verification of APRN available on NURSYS. The first national specialty certification made available is CRNA's through a collaborative effort with AANA. Ms. Douglas commented that it is complicated in Virginia because CRNA's and CNM's are licensed as nurse practitioners, which is not true in all states. Ms. Douglas noted that cleaning up data in MLO is in the planning.

Mr. Monson expressed interest in attending HPMP training. Ms. Douglas said that she would arrange for substance abuse disorder training to occur at future meeting.

Lisa Hahn and Ms. Yeatts left the meeting at 9:35 A.M.

NLCA Executive Committee May 22-25, 2017 Meeting Report:

This item was included in Ms. Douglas' Executive Director report.

NCSBN Discipline Case Management June 12-14, 2017 Conference Report:

Ms. Douglas stated that Ms. Tonya James, Compliance Case Manager for the Board, has submitted a written report of the Conference.

NCSBN Executive Officer June 19-21, 2017 Summit Report:

This item was included in Ms. Douglas' Executive Director report.

Committee of the Joint Boards of Nursing and Medicine June 7, 2017 Business Meeting minutes and recommendation:

Ms. Hershkowitz reviewed the following from the Committee of the Joint Board June 7 Business meeting:

- Pain Management Emergency Regulations
- NOIRA for supervision and direction of laser hair removal
- Telemedicine guidance document
- Proposal of eliminating prescriptive authority license

Ms. Hershkowitz moved to accept the Committee of the Joint Boards of Nursing and Medicine June 7, 2017 Business meeting minutes and to endorse the recommendation to initiate regulatory action to issue a single license for an LNP with Prescriptive Authority. The motion was seconded and carried unanimously.

Committee of the Joint Boards of Nursing and Medicine June 7, 2017 Informal Conference minutes:

Ms. Hershkowitz moved to accept the Committee of the Joint Boards of Nursing and Medicine June 7, 2017 Informal Conference minutes. The motion was seconded and carried unanimously.

OTHER MATTERS:

DHP Policy on Per Diems for Board Members:

Ms. Douglas commented that this policy went into effect on July 1, 2017 and reviewed frequently asked questions. Ms. Douglas noted that Members of Advisory Committee of the Joint Boards are not eligible for per diem since they are not created by appointed bodies. Ms. Douglas added that an estimate per diem expenses per year for Board of Nursing is \$24,550.00.

DHP Policy 76-90 was provided to Board Members.

Summary of Recommendations to the 2017 NCSBN Delegate Assembly:

Ms. Douglas stated that this information is shared with the Board so that it may be aware of what NCSBN's recommendations for the 2017 Delegate Assembly

in August. She added that the 2017 Annual Meeting business book is not available yet.

George Washington University Simulation Conference:

Dr. Hahn stated that the Conference is intended to look at best practices and it will target a regional audience of MD, DC, and VA. She added that no date has been set yet.

Planning for Recognition of Outgoing Board Members:

Dr. Hahn stated that lunch is planned to recognize the Outgoing Board Members in September, followed by a Board retreat.

Letter from NCSBN President Katherine Thomas:

Ms. Douglas stated that this is a good summary of what NCSBN will discuss at its annual meeting in August 2017. She suggested Dr. Ross and Mr. Monson to review the information prior to the meeting.

DHP Key Performance Measures (KPM) for Q4 2017:

Ms. Douglas stated that the Board continues to struggle meeting the key performance measures due to continuance requests. She added that as of September 1, 2017, when a continuance is granted, the clock is stopped in MLO and the Board is not penalized for not meeting KPM of patient care cases closed within 250 business days.

PUBLIC HEARING:

To receive comments on Proposed Regulations for the Licensure and Practice of Massage Therapists.

The Board received one comment as follow:

Becky Bowers-Lanier, Virginia Chapter of American Massage Therapy Association (AMTA), commented that the regulations are fairly current and asked the Board to consider increasing Ethic requirement for continuing education.

Dr. Hahn stated that written comments should be submitted Ms. Yeatts and the public comment period will end on October 11, 2017.

RECESS:

The Board recessed at 10:10 AM

RECONVENTION:

The Board reconvened at 10:27 AM

POLICY FORUM:

“*Chronic Pain Case Study*” presentation by Dr. Cathy A. Harrison, DNAP, MSN, CRNA

Ms. Hershkowitz introduced Dr. Harrison and noted that Dr. Harrison has many years of experience and retired last year as a Navy Officer.

Dr. Harrison thanked the Board for the opportunity to present and provided the following information:

- The Virginia Action Coalition/Access to Care Workgroup was established in the 2000
- The goal is to inform the public about non-medication strategies to manage pain
- Discussion of chronic pain and opioid epidemic
- CDC recommendations for managing chronic pain.

Dr. Harrison noted that the presentation also has the script so the public can follow along. She added that the work is in process to make this presentation and the script available on Virginia Nurses Association (VNA) website.

Dr. Hahn suggested also making the presentation available in video format. Dr. Harrison commented that it was a good idea.

Ms. Hershkowitz suggested developing a one-page summary of the presentation so that it can be posted on website to draw attention of the public. Dr. Harrison thanked her for the suggestion.

Ms. Douglas noted that the presentation and script have been shared with Dr. Brown to assist with the work of the state task force on education. She added that Dr. Harrison has been hired by DHP as Investigator.

Ms. Douglas stated that VNA is planning an opioid conference and more information will be provided once it is available.

Ms. Yeatts re-joined the meeting at 10:55 A.M.

EDUCATION:

Education Special Conference Committee July 12, 2017 Minutes and Recommendations:

Dr. Hahn reviewed the July 12, 2017 Committee works as referenced in minutes and two recommendations for Board consideration and action. She thanked Ms. Hershkowitz for being a Committee member.

Mr. Monson moved to accept the minutes and recommendations as presented. The motion was seconded and passed unanimously.

Education Staff Report:

Ms. Ridout reported on the following:

- James Madison University (JMU) will be partnering with Blue Ridge Community College (BRCC) to offer a dual enrollment program beginning in the Fall of 2017. Participating students will be able to complete their baccalaureate degree in nursing in one to two years after graduating from BRCC with an associate degree in nursing.

- Riverside College Health Careers was recognized on the first Forbes list of the top 30 trade schools in America. The data points for those making list included earnings upon graduation and affordability and quality of education.
- Two students from the Giles County Technical School practical nursing program completed a community awareness project regarding the dual diagnosis of mental illness and the drug addiction epidemic. The students recently presented a poster on their project at both the state and national HOSA-Future Health Professionals Conferences. Their community awareness project placed first at both conferences.

Board Members requested that the students be invited to present at the future meeting of the Board.

Update on Nurse Aide Testing:

Dr. Saxby reported that the transition to the new nurse aide testing process had many issues during May and June, but they have been mostly resolved. She added that the new testing process started on May 19, 2017. She noted that toll free number will be available next week. PearsonVUE staff have been very responsive to issues as they occur.

The Virginia Board of Nursing sent a representative to the nurse aide test setting meeting hosted by NCSBN in July.

Ms. Douglas commented that there have been reports of students being rude during the nurse aide exam. PearsonVUE on the NCLEX side has been down several times during the past month. PearsonVUE staff are working on a fix for their system errors.

Ms. Minton recognized Dr. Saxby and Ms. Ridout on dealing with student issues, especially with Horizontal Violence and bullying.

LEGISLATION/
REGULATION:

Status of Regulatory Action:

Ms. Yeatts stated that two regulatory actions, Name tag and Accreditation of Nursing Education Programs, are still at the Governor's Office for approval.

Re-adoption of Emergency Regulations Governing Prescribing of Opioids and Buprenorphine for Nurse Practitioners and Adoption of Proposed Regulations to replace the Emergency Regulations:

Ms. Yeatts stated that the emergency regulations were reviewed to determine whether any immediate changes needed to be made. Input from the Virginia Department of Health (VDH), the Department of Medical Assistance Services (DMAS), the Department of Behavioral Health and Developmental Services (DBHDS), Department of Health Professions (DHP) and great deal of testimonies from prescribers and patients regarding financial hardship and

naloxone intolerance were considered. Ms. Yeatts noted that the re-adoption of emergency regulations was adopted by the Board of Medicine on June 22, 2017. She added that once the Governor approves the regulations, it will be effective immediately.

Ms. Yeatts then noted the following recommended changes to the regulations for nurse practitioners:

- The term “*abuse*” is replaced with the term “*misuse*” throughout the regulations because “*misuse*” is broader and it refers to diversion.
- It was determined that “3%” threshold would be enough to cover naloxone intolerance in 18VAC90-40-270(A)(4)

Ms. Yeatts stated that the amendments to emergency regulations on nurse practitioner regulations for prescribing opioids and buprenorphine consistent with regulations for Medicine and the adoption of proposed regulations to replace emergency regulations are present for Board action.

Mr. Monson moved to adopt the amendments to emergency regulations on nurse practitioner regulations for prescribing opioids and buprenorphine as present. The motion was seconded and passed unanimously.

Mr. Monson moved to adopt the proposed regulations to replace emergency regulations as present. The motion was seconded and passed unanimously.

NOIRA for supervision and direction of laser hair removal by Nurse Practitioners:

Ms. Yeatts noted that the HB2119 was passed by the 2017 General Assembly and it became law as of July 1, 2017. Ms. Yeatts added that the regulations for nurse practitioners will need to be amended to define “direction and supervision” and to provide guidance about the practitioner responsibility relative to a “properly trained person.”

Mr. Monson moved to adopt a NOIRA to implement HB2119 in 18VAC90-30, Regulations Governing the Practice of Nurse Practitioners as present. The motion was seconded and passed unanimously.

Adoption of Guidance Document (GD) on the Telemedicine for Nurse Practitioners:

Ms. Yeatts stated that GD 90-64 (Telemedicine for Nurse Practitioners) must be amended due to recent amendments to the Code on prescribing by telemedicine. Ms. Yeatts noted that the Board of Medicine approved both their GD and this GD on June 22, 2017.

Mr. Monson moved to adopt the revised GD 90-64 as presented. The motion was seconded and passed unanimously.

Consideration of Amendment to Requirements for Applicants from Other Countries:

Ms. Yeatts stated that the proposed amendment to 18VAC90-19-120 (Licensure by Endorsement) for foreign-trained graduates is present for Board consideration. Ms. Yeatts added that for foreign-trained applicants by endorsement, who have license in another U.S. jurisdiction, may already have their credentials review by CGFNS and an examination of English proficiency, so it may be unnecessarily burdensome and create delays in licensure to repeat the same requirements.

Ms. Douglas noted that the Virginia Hospital and Healthcare Association brought this matter to the Board for consideration.

Ms. Yeatts suggested that the word “*shall*” before “*be waived if*” in 18VAC90-19-120.A(2) be replaced with the word “*may*”. All agreed

Mr. Monson moved to adopt the proposed amendment to requirements for applicants from other countries as present. The motion was seconded and passed unanimously.

Adoption of Amendment to correct section referring to Practice Agreements for Prescriptive Authority:

Ms. Yeatts stated that the Code was amended in 2016 relating to practice agreements, but 18VAC90-40-120 was overlooked. It is present for Board’s adoption of the proposed amendments by a fast-track action. Ms. Douglas added that this is a technical amendment.

Ms. Hershkowitz moved to adopt the proposed amendments to 18VAC90-40-120 as present by a fast-track action. The motion was seconded and passed unanimously.

Ms. Yeatts and Ms. Ridout left the meeting at 11:42 A.M.

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 11:42 A.M. for the purpose of deliberation to consider consent orders. Additionally, Ms. Gerardo moved that Ms. Douglas, Ms. Power, Ms. Krohn, Ms. Willinger, Dr. Saxby, Ms. Kleiner, Ms. Tiller, Ms. Vu, and Mr. Rutkowski 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 11:45 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.

Patricia Flanagan Demasi, RN 0001-131911

Mr. Monson moved to accept the consent order of voluntary surrender for indefinite suspension of Patricia Flanagan Demasi's right to renew her license to practice professional nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Rob Allen Kuschel, RN 0001-192106

Mr. Monson moved to accept the consent order of voluntary surrender for indefinite suspension of Rob Allen Kuschel's right to renew his license to practice professional nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege. The motion was seconded and carried unanimously.

Michelle Louise Stevans, LPN 0002-036767

Mr. Monson moved to accept the consent order to accept the voluntary surrender for indefinite suspension of Michelle Louise Stevans' license to practice practical nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege. The suspension is stayed upon proof of Ms. Stevans' entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) and remaining in compliance with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was seconded and carried unanimously.

Paul M. Colton, RN 0001-233424

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

Kristin Tucker Tharpe, RN 0001-197232

Mr. Monson moved to accept the consent order to indefinitely suspend the license of Kristin Tucker Tharpe to practice professional nursing in the Commonwealth of Virginia, said suspension applies to any multistate privilege. The suspension is stayed contingent upon Ms. Tharpe's continued compliance with all terms and conditions of the Virginia Health Practitioners' Monitoring Program (HPMP) for the period specified by the HPMP. The motion was seconded and carried unanimously.

Virginia Board of Nursing
Business Meeting
July 18, 2017

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 11:49 A.M.

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