

**VIRGINIA BOARD OF NURSING**  
**MINUTES**  
**July 17, 2018**

**TIME AND PLACE:** The meeting of the Board of Nursing was called to order at 9:03 A.M. on July 17, 2018, in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

**PRESIDING:** Louise Hershkowitz, CRNA, MSHA; President

**BOARD MEMBERS PRESENT:**

Jennifer Phelps, BS, LPN, QMHPA; First Vice President  
Marie Gerardo, MS, RN, ANP-BC; Second Vice President  
Margaret J. Friedenberg, Citizen Member  
Ann Tucker Gleason, PhD, Citizen Member  
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP  
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC  
Mark D. Monson, Citizen Member  
Meenakshi Shah, BA, RN  
Grace Thapa, DNP, FNP-BC, AE-E

**BOARD MEMBERS ABSENT:**

Laura Freeman Cei BS, LPN, CCRP  
Michelle D. Hereford, MSHA, RN, FACHE  
Trula Minton, MS, RN

**STAFF PRESENT:**

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director  
Jodi P. Power, RN JD; Senior Deputy Executive Director  
Brenda Krohn, RN, MS; Deputy Executive Director  
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice  
Stephanie Willinger; Deputy Executive Director for Licensing  
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  
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy  
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions  
Lisa Speller-Davis, BSN, RN; Policy Assistant

**IN THE AUDIENCE:**

Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)  
Kathy Morris, VCNP  
Melissa Palka, VCNP  
Rosie Taylor-Lewis, DNP, ANP-BC, GNP, VCNP  
Judy Collins, VCNP  
Winifred Y. Carson-Smith, VCNP  
Christine Heubusch, VCNP  
Leah Loomis, VCNP  
Ryan LaMira, Virginia Hospital and Healthcare Association (VHHA)  
Jerry J. Gentile, Department of Planning Budget (DPB)  
W. Scott Johnson, Medical Society of Virginia (MSV)

Janet Wall, CEO of the Virginia Nurses Association (VNA)  
Dana Parson, Leading Age Virginia  
Katie O'Connor, the Virginia Mercury  
Meredith Rose, Board of Nursing Summer Intern  
Kelsi Singleton, Board of Nursing Summer Intern

**ESTABLISHMENT OF A QUORUM:**

Ms. Hershkowitz asked Board Members and Staff to introduce themselves. With 10 members present, a quorum was established.

**ANNOUNCEMENTS:**

Ms. Hershkowitz welcomed Ms. Shah to her first meeting as a Board Member. Ms. Shah shared her background.

Ms. Douglas highlighted the announcements on the agenda.

- Welcome to New Board Member → Meenakshi Shah, BA, RN
- Cathy Hanchey started on March 25, 2018 in the full-time LMT Senior Licensure Specialist position
- Beth Yates has accepted the full-time Nursing and Nurse Aide Education Coordinator position effective May 25, 2018
- Meredith Rose and Kelsi Singleton started their internship with the Board on Monday June 11, 2018
- Nancy Durrett, BS, RN - resignation as Agency Subordinate effective June 30, 2018
- Brenda Krohn, RN, MS, Deputy Executive Director, Medication Aide Registry and Massage Therapy Manager – retirement effective August 31, 2018

Ms. Hershkowitz added that Dr. Hahn will be inducted Fellow of the American Academy of Nursing (FAAN) in September 2018, which is a national honor.

**UPCOMING MEETINGS:**

Ms. Douglas noted the upcoming meetings on the agenda:

- ENLC Annual Meeting is scheduled for August 14, 2018 in Minneapolis, MN – Ms. Douglas, as Commissioner, will attend
- NCSBN Annual Meeting is scheduled for August 15-17, 2018 in Minneapolis, MN – Ms. Hershkowitz, Ms. Minton, Ms. Douglas, and Ms. Ridout will attend
- ENLC Executive Committee Meeting is scheduled for September 6-7, 2018 in Del Mar, CA – Ms. Douglas, as Commissioner, will attend

**DIAGLOGUE WITH DHP  
CHIEF DEPUTY:**

Dr. Allison-Bryan reported the following information on behalf of Dr. Brown, who is attending the Agency Head meeting downtown:

- Congratulations to the Board on its hard work regarding implementation of the Nurse Practitioner Bill (HB793)

- Pharmaceutical Processor Update – there will be five facilities total throughout Virginia health districts. First certification for use by physicians for THC-A and Cannabidiol (CBD) Oil for intractable epilepsy. Certification can be issued to any physicians to treat any conditions. 51 applications and \$10K in fee were received as of June 30, 2018. Ad Hoc Committee was formed to evaluate the applications. The application is expected to go online in 2019.

ORDERING OF AGENDA: Ms. Hershkowitz asked staff to provide additions and/or modifications to the Agenda. None was noted.

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 14, 2018	Panel – Ms. Hershkowitz
May 15, 2018	Quorum – Ms. Hershkowitz
May 16, 2018	Panel – Ms. Phelps
May 16, 2018	Panel – Ms. Hershkowitz

Reports:

Agency Subordinate Tracking Log  
Finance Report  
Board of Nursing Monthly Tracking Log

REPORTS:

**Executive Director Report:**

Ms. Douglas reported the following:

- NCSBN APRN Compact discussions related transition to practice models and variances among states with independent versus collaboration. NCSBN Board of Director (BOD) will take up the recommendations from Executive Officers and clarifications may be provided in rules.
- “*Occupational Licensing*” was presented at the NCSBN Executive Officer Summit and was well received. Also at the same meeting, a discussion of NCSBN Leadership Assessment, Executive Officer Competencies, and Succession Planning was reviewed and feedback was provided.
- Board Staff involved with the Virginia Nurses Association (VNA) and Virginia Nurses Foundation (VNF) on how to assist in opioid crisis. One meeting was held to identify the need to educate nurses. Ms. Douglas and VNA /VNF also participated in telephone conference call with SAMSHA to identify collaborative opportunities and available education resources. The Board will assist by

distributing information to education program and engaging students and faculty in this effort. More meetings are planned and more reports to come.

- Dr. Hills attended the Virginia Action Coalition (VAC) Access to Care meeting. The discussion was about efforts to develop a mental health case study for distribution to nurses.
- Exam application – busy season for Board of Nursing licensure, 182 people were tested in one day recently and a majority of people were licensed in two days.
- Paperless Workgroup – DHP is moving toward electronic verification for other state licensure Board, similar to Board of Nursing using NURSYS. Dr. Brown has approved paperless license plan. As of January 1, 2019, initial license will be issued one time only, when the license is renewed, the licensee will not receive the paper license. If a licensee wishes to receive a paper license, there will be a fee associated with it. This process will help with fraud issues, cost saving and reduction in administration.
- Electronic renewal notice – Legislation was passed last year, Nursing will be working on the next couple months for all licensees with emails on file.
- DHP Website – website will have a new look, collapsible menus, more user friendly and accessible. Nursing webpage is the first to be updated, anticipating it to complete by September. Each Board/unit will have identified staff who are able to update content once trained on the software, for more timely content changes to the public. Ms. Speller-Davis is involved in this process.

**Education Committee and Simulation Regulation Committee May 15, 2018 Meeting Minutes:**

Dr. Hahn reviewed the items covered by the Committees on May 15, 2018 noting that Board staff reviewed nursing issues most frequently encountered. She also reviewed the recommended changes in regulations pertaining to simulation in lieu of direct client care.

**The Committee of the Joint Boards of Nursing and Medicine Regulatory Advisory Ad Hoc Committee May 17, 2018 Meeting Minutes:**

Ms. Hershkowitz highlighted the minutes as presented in the agenda noting that many comments received during the meeting.

**OTHER MATTERS:**

**Board Counsel Update:**

Ms. Mitchell stated that the Board has one pending appeal in Prince William County which was not filed in a timely manner. She added that the attorney filed for Nonsuit which is not available in appeal court. She noted that the motion to dismiss will be filed by the Board.

**Topics for future Health Practitioners' Monitoring Program (HPMP)**

**Presentation:**

Ms. Hershkowitz stated that the Board need more information from HPMP beside the numbers. She suggested information on:

- The impact of medical marijuana oil
- Practitioners who are receiving medication assisted treatment

Mr. Monson added the statistics of relapse/success over period of time would be good data to have.

Ms. Hershkowitz encouraged Board members to send in the information they want to know more about HPMP to her or to Ms. Douglas.

**Monetary Penalty:**

Ms. Douglas reported on issues regarding monetary penalty have come up. She said that Finance approached her on five cases from 2017 where the Board either revoked or suspended licenses and added a monetary penalty of \$5,000. She added that Finance has exhausted all efforts to collect monies through collection agencies and so the collection process now moves to the Attorney General's office for a very aggressive collection approach.

Ms. Douglas noted that respondents mostly likely felt they had no obligation to the Board since their licenses were suspended. She asked the Board to consider whether there is anything "value added" by including a monetary penalty with a suspension/revocation.

Mr. Monson agreed that the Board need clear idea of what is appropriate. Ms. Hershkowitz suggested the development of a guidance document is needed. Ms. Douglas said that a Disciplinary Committee can be established. Ms. Hershkowitz asked Board members to volunteer on the Disciplinary Committee to discuss the use of monetary penalty and to bring back recommendations to the Board.

**Massage Therapy Licensing Database:**

Ms. Krohn introduced Cathy Hanchey as the new Senior LMT Licensing/Discipline Specialist.

Ms. Krohn stated that the Federation of State Massage Therapy Boards (FSMTB) is moving forward with database similar to NURSUS. She noted that the database will be presented to the Massage Therapy Advisory Board in October 2018 for review and recommendation and will be presented to the Board in November 2018.

**Possible Summary Suspension Consideration:**

Ms. Hershkowitz reminded that the Board will consider possible summary suspension on Wednesday, 7/18, at 9:00 A.M. in Board Room 2.

**Changes to Special Conference Committee (SCC) Composition:**

Ms. Hershkowitz reviewed the changes to the SCC-A and SCC-E.

RECESS: The Board recessed at 9:50 A.M.

RECONVENTION: The Board reconvened at 10:00 A.M.

PUBLIC HEARING: **To receive comments on Proposed Regulations for Prescribing of Opioids by Nurse Practitioners (18VAC90-30 and 40) to replace the emergency regulations currently in effect:**

Winfred Y. Carson-Smith, VCNP, commented the following concerns regarding the proposed regulations:

- VCNP's position is that these regulations are burdensome
- Many states' regulations rely on other guidelines such as Centers for Disease Control and Prevention (CDC)
- Other regulations provide options for diagnosing and prescribing
- Other regulations require more continuing education regarding nurse practitioners and prescribing
- The proposed regulations are inconsistent with policy of Governor Northam, Federal Omnibus approach, and HB793
- The proposed regulations should eliminate Practice Agreement including Buprenorphine in the regulations to be consistent with HB793

There was only one person who made the comment. Ms. Hershkowitz noted that the comment period ends on September 7, 2018 and asked that comments to be submitted to Ms. Yeatts.

PUBLIC COMMENT: Janet Wall, CEO of the Virginia Nurses Association (VNA) and Virginia Nurses Foundation (VNF), shared the following:

- The VNF Leaders and Partners Mental Health Roundtable 2<sup>nd</sup> meeting is scheduled on Monday, July 23, 2018 with the discussion of access, availability and appropriateness: providers' perspective. Representatives include Department of Behavioral Health and Developmental Services (DBHDS), Virginia Department of Health (VDH), Virginia Board of Nursing, community services boards and local health districts, National Alliance on Mental Illness (NAMI) Virginia and Substance Abuse and Addiction Recovery Alliance (SAARA), police departments, Crisis Intervention Team (CIT), health systems, long term, and hospice/palliative care.
- VNF's Nurse Leadership Academy (NLA) Steering Committee has met multiple times to plan this multi-month multi-modal program which will launch in 2019. Curriculum is developed and speakers are now being identified. NLA is geared toward emerging nurse leaders

and will include completion of an employer-approved capstone project.

- Sales of the Nurses Change Lives license plates have now surpassed 1,000, which means that it is now a revenue share between DMV and VNF. Revenue received by VNF will support scholarship and education programs.
- The annual Gala, which is VNF's largest fundraiser and supports the year-round work of the foundation, will be held September 22, 2018 at the Hilton Richmond Hotel & Spa, Short Pump. As in the past several years, a sell-out crowd of 500 guests is anticipated as we celebrate nursing with our 40 Under 40 awards. We also plan to recognize two legislators as our 2018 Friends of Nursing.
- Innovations conference, which is being presented by both VNA and VNF, will be held September 21 & 22 at the Hilton Richmond Hotel & Spa, Short Pump. New this year: agenda includes three concurrent sessions for a total of nine presentations, enabling attendees to personalize their conference experience.
- Spring conference, "The Business of Caring," will be held April 17 at The Place at Innsbrook in Richmond (Glen Allen). Sessions will focus on the value of services and optimal health outcomes.
- VNA will be re-convening its Kitchen Cabinet, so named after the group of colleagues upon which President Andrew Jackson relied in lieu of his formal Cabinet. In past years, the Kitchen Cabinet was convened solely to vet gubernatorial candidates. Beginning this year, leaders representing nursing and other healthcare associations from throughout the commonwealth will be invited to the table to discuss issues which will or should come before the legislature in the upcoming legislative session. The group will ultimately develop the annually-updated Nursing's Public Policy Platform.

EDUCATION:

**Education Informal Conference Committee July 10, 2018 Minutes and Recommendations:**

Dr. Hahn reviewed the July 10, 2018 minutes including recommendation to withdraw Healing Hands Practical Nursing's approval to operate a practical nursing program. Mr. Monson moved to accept the minutes and recommendations as presented. The motion was seconded and carried unanimously.

**Education Staff Report:**

Ms. Ridout said that it is time to review the NCLEX test from October 22 to November 9, 2018. She added that Board members can volunteer and to let either her or Dr. Saxby know if they are interest by July 22, 2018.

**Mary Marshall Scholarship Fund:**

Ms. Ridout reviewed the handout provided in the agenda noting that Virginia Department of Health (VDH) assigned scholarships for LPNs and RNs and Ms. Yates will work with schools to ensure scholarships awarded to students in the fall. Ms. Ridout stated that by statute \$1 per renewal license fee goes into the funds.

Ms. Ridout noted that students can apply through VDH website for scholarship and there is also a link from Board of Nursing website called “9 things to consider when choosing a Nursing Education Program” regarding the fund. She added that the average amount of scholarship is from \$500 to \$1,500.

The Board discussed ensuring how to better get this information out to increase awareness and suggested that Virginia Nurses Association assist in this process.

**POLICY FORUM:**

**Virginia’s Certified Nurse Aide Workforce - 2017:**

Drs. Carter and Shobo reviewed the reports provided in the Agenda package noting no significant changes from 2016.

HRSA Health Workforce data expects 48% increase in demand for CNAs was also provided.

**Virginia’s Nursing Education Programs: 2016-2017 Academic Year:**

Drs. Carter and Shobo reviewed the reports provided in the Agenda package and noted the following trends:

- Faculty are less diverse in RN than in PN
- Slight increase in numbers of faculty in both RN and PN programs
- For PN programs, admission declining by 3% and graduation declining by 26%
- For RN programs, only the number of graduates declined by 2% and the number admitted increased by 3%

Mr. Monson moved to accept both reports as presented. The motion was seconded and carried unanimously.

Dr. Carter stated that these Health Care Workforce Center reports will be posted on the DHP website.

**RECESS:**

The Board recessed at 11:20 A.M.

**RECONVENTION:**

The Board reconvened at 11:30 A.M.

LEGISLATION/  
REGULATION:

**Status of Regulatory Action:**

Ms. Yeatts said that there is no change in stages of the regulatory actions as of July 5, 2018. She expected the Board will consider the Elimination of separate license for prescriptive authority and prescribing of opioid regulations at its September 2018 meeting. She noted that the Board of Medicine has made changes to the regulations for prescriptive authority for nurse practitioners to include sickle cell to the exception section.

**Adoption of NOIRA on Rules for use of Simulation in Nursing Education:**

Ms. Yeatts stated that the Nursing Education Committee and the Simulation Regulation Committee met on May 15, 2018 to discuss the regulations pertaining to simulation in lieu of direct client care.

Ms. Yeatts noted that the Board is not adopting the draft regulations, but approving publication of a Notice of Intended Regulatory Action (NOIRA) identifying the following changes recommended by the Committees:

- New definition for “*Direct Client Care*”
- New definition for “*Simulation*”
- Simulation shall not be used for more than 50% of the total clinical hours in different clinical specialties and population groups across the life span
- Faculty with education and expertise in simulation and in the applicable subject area must be present during the simulation experience.

Mr. Monson moved to approve publication of the NOIRA identifying recommendations of the Committees. The motion was seconded and carried unanimously.

**Adoption of Emergency Action on Regulations for Autonomous Practice for Certain Nurse Practitioners (HB793):**

Ms. Yeatts said that the HB793 was passed by the 2018 General Assembly and the 2<sup>nd</sup> enactment clause requires regulations to be in effect within 280 days of enactment, which is January 9, 2019. She added that the Boards of Nursing and Medicine must adopt identical regulations.

Ms. Yeatts stated that the Regulatory Advisory Panel (RAP) comprised of Members of the Committee of the Joint Boards and Members of the Advisory Committee convened on May 17, 2018 and asked for public comments on proposed regulations and made recommendations. She added that copies of comments on the draft regulations and summary of comment are included in the agenda.

Ms. Yeatts then reviewed 54.1-2957 amendments and draft regulations noting the following:

- The definition of “*Clinical experience*” was added
- The term “*Autonomous practice*” is defined in place of the term “*independent practice*” because nurse practitioners do not practice independently
- One time autonomous practice attestation fee is \$100.00
- Equivalent of five years of full-time clinical experience is defined as 1,600 hours per year for a total of 8,000 hours
- If a nurse practitioner is licensed and certified in more than one category, the hours of practice are applicable to the patient population and in practice areas included within each of the categories of licensure and certification may be counted toward a second attestation
- “*Other evidence*” of meeting the qualification for autonomous practice may be submitted in the event a patient care team physician has died, become disabled, retired, or relocated to another state, or other circumstance that inhibits the ability of the nurse practitioner from obtaining an attestation

Ms. Yeatts thanked Dr. Hills for the summary of public comments received and noted the following about the comments received:

- Concern regarding overlap of hours counted double in 2<sup>nd</sup> specialty attestation
- Full time equivalent of five years should be 2,000 hours per year or 10,000 hours in five years
- Detail needed regarding “*specialty area and/or patient population must be aligned*” between patient care team physician and nurse practitioner while under practice agreement
- Core competencies needed to be defined in the regulations to ensure a nurse practitioner has achieved the basic competencies for autonomous practice
- Prescribing limitations
- Consider substituting “*independent*” for “*autonomous*”

Ms. Yeatts added that numerous nurse practitioners are in support of the regulations as recommended by the RAP

Ms. Hershkowitz asked if Ms. Gerardo and Dr. Hahn have additional comments regarding the May 17, 2018 RAP meeting. Ms. Gerardo said that the draft regulations are product of agreement between the Boards of Nursing and Medicine on the RAP and only non-unanimous vote was on five-year full time equivalency. Dr. Hahn indicated it was a valuable and collegial experience to serve on the RAP.



Virginia licensure or by privilege arising from multistate licensure in another Compact State.

- The suspension is stayed upon proof of Ms. Renison's entry into a Contract with the Health Practitioners' Monitoring Program (HPMP) and remaining in compliance with all terms and conditions of the HPMP for the period specified by the HPMP.
- Within 90 days from the date of entry of the Order, Ms. Renison shall provide written proof satisfactory to the Board of successful completion of the following NCSBN courses:
  - *Documentation: A Critical Aspect of Client Care*
  - *Medication Errors: Causes & Prevention*

The motion was seconded and carried unanimously.

**Christel Andea Roden, RN                      0001-245161**

Dr. Hahn moved to accept the consent order to reprimand Christel Andrea Roden and to indefinitely suspend her license to practice professional nursing in the Commonwealth of Virginia from the date of entry of the Order. The Order applies to Ms. Roden's practice in Virginia, whether by Virginia licensure or by privilege arising from multistate licensure in another Compact State. The motion was seconded and carried unanimously.

**Lauren Tosi, RN                                      0001-242230**

Dr. Hahn moved to accept the consent order of voluntary surrender for indefinite suspension of Lauren Tosi's license to practice professional nursing in the Commonwealth of Virginia. The Order applies to Ms. Tosi's practice in Virginia, whether by Virginia licensure or by privilege arising from multistate licensure in another Compact State. The motion was seconded and carried unanimously.

**David Workman Mitchell, RN                      0001-143493**

Dr. Hahn moved to accept the consent order to reinstate the license of David Workman Mitchell to practice professional nursing in the Commonwealth of Virginia without restriction. The motion was seconded and carried unanimously.

**Heather Culbertson, RN                              0001-252353**

Dr. Hahn moved to accept the consent order to reprimand Heather Culbertson and indefinitely suspend her license to practice professional nursing in the Commonwealth of Virginia. The Order applies to Ms. Culbertson's practice in Virginia, whether by Virginia licensure or by privilege arising from multistate licensure in another Compact State. The motion was seconded and carried unanimously.

**Allison Moody Newcome, RN                      0001-241785**

