

**VIRGINIA BOARD OF NURSING
MINUTES
November 13, 2018**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on November 13, 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
Laura Freeman Cei BS, LPN, CCRP
Margaret J. Friedenberg, Citizen Member
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Meenakshi Shah, BA, RN
Grace Thapa, DNP, FNP-BC, AE-E

MEMBERS ABSENT: Ann Tucker Gleason, PhD, Citizen Member
Michelle D. Hereford, MSHA, RN, FACHE

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Jodi P. Power, RN, JD; Senior Deputy Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Paula B. Saxby, PhD, RN; Deputy Executive Director for Education
Stephanie Willinger; Deputy Executive Director for Licensing
Lisa Speller-Davis, BSN, RN; Policy Assistant
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

IN THE AUDIENCE: Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Sarah Heisler, Virginia Hospital and Healthcare Association (VHHA)
Jerry J. Gentile, Department of Planning Budget (DPB)
Tonora Gaibutt, ODU Nursing Student
Stephanie Cattic, VCU Nursing Student

ESTABLISHMENT OF A QUORUM:

Ms. Hershkowitz asked Board Members and Staff to introduce themselves. With 12 members present, a quorum was established.

ANNOUNCEMENTS:

Ms. Hershkowitz highlighted the announcements on the agenda.

- Charlette Ridout has accepted the Deputy Executive Director position for the Nurse Aide, Medication Aide and Massage Therapy Program position effective October 1, 2018
- Pat Dewey has accepted the Discipline Case Manager RN for the Nurse Aide, Medication Aide and Massage Therapy Program position effective October 1, 2018
- Brenda Hundley has accepted the Discipline Specialist for Nurse Aide, Medication Aide and Massage Therapist Program position effective October 1, 2018
- Joseph Corley has accepted the Nurse Practitioner Licensing Application Compliance Specialist effective October 10, 2018
- Ms. Gerardo appointed as the Chair for the Committee of the Joint Boards of Nursing and Medicine effective December 5, 2018

Ms. Hershkowitz congratulated Dr. Hahn as an inductee of the Fellow of the American Academy of Nursing (FAAN).

UPCOMING MEETINGS:

Ms. Hershkowitz noted the upcoming meetings on the agenda:

- The Nurse Licensure Compact Strategic Planning Meeting is scheduled for November 28-29, 2018 in Nashville, TN. Ms. Douglas will attend as Commissioner
- The NCSBN Board of Directors Meeting is scheduled for December 3-4, 2018 in Chicago. Ms. Douglas will attend the meeting
- The Committee of the Joint Boards of Nursing and Medicine Meeting is scheduled for Wednesday, December 5, 2018 at 9:00 am in Board Room 4

**DIAGLOGUE WITH DHP
CHIEF DEPUTY:**

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

- DHP will conduct media summit in collaboration with VCU and Society of Professional Journalist on Thursday, November 15, 2018 from 6:00 pm to 9:00 pm at VCU. The focus is to increase communication with licensees
- The Prescriptive Monitoring Program (PMP) report now has NarxScores which contain narcotic, sedative and stimulant scores. NarxScores weigh medication used and medication behaviors. NarxScores have 3 digit numbers from 000–999 with the last digit representing the number of current prescriptions. NarxScores also contain overdose risk score with 3 digit ranging from 000-999.

Dr. Allison-Bryan left the meeting at 9:25 A.M.

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

Ms. Power noted the following regarding Agency Subordinate Recommendations on Wednesday, November 14, 2018:

Panel A:

Keyona Denise Harris, CNA (#23) has submitted written response and plans to appear.

Emily L. Payne, CNA (#29) has submitted written response

Panel B:

Rachel Carper, CNA (#10) has submitted written response

Wendie L. Peirce, LPN (#22) has submitted written response

Marcia Perez Pacho, RN (#28) plans to appear with attorney

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 18, 2018	Board of Nursing Officer Meeting – Ms. Hershkowitz
September 17, 2018	Panel – Ms. Phelps
September 18, 2018	Quorum – Ms. Hershkowitz
September 18, 2018	Board of Nursing Officer Meeting – Ms. Hershkowitz
September 19, 2018	Panel – Ms. Phelps
September 19, 2018	Panel – Ms. Gerardo
September 20, 2018	Panel – Ms. Hershkowitz
October 23, 2018	Telephone Conference Call – Ms. Hershkowitz

Reports:

Agency Subordinate Tracking Log
Finance Report as of September 30, 2018
Board of Nursing Monthly Tracking Log
HPMP Quarterly Report, June - September 2018

REPORTS:

Executive Director Report:

Ms. Douglas reported the following in addition to her written report:

- **Board staff update** –The Board’s vacant positions are the RN Discipline Case Manager, the Licensing Examination Supervisor, and the CNA Discipline Specialist
- **Board of Directors Meeting, October 15-16, 2018 Report** – the meeting was interesting and included orientation to the role of NCSBN Board of Directors and the development of a strategic plan

regarding future changes to the NCLEX exam, the APRN Compact and NCSBN's research scope of practice of the registered nurse

- **International Nurse Regulator Collaborative (INRC) Symposium, October 22-23, 2018 Report** – Ms. Douglas attended the meeting on behalf of the NCSBN Board of Directors. Topics of discussion included International Regulatory issues that affect licensure of the foreign applicants.

CORE Committee September 18, 2018 Meeting Minutes:

Ms. Minton highlighted the minutes as presented in the agenda and thanked Ms. Friedenbergh for joining the Committee. Ms. Minton provided an overview of CORE Committee's works noting that the Committee is finalizing its review of the NCSBN 2016 summary of reports for discipline, licensure and education. Ms. Minton added that the Committee plans to present the summary and recommendations to the Board at its January 2019 meeting.

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

The Committee of the Joint Boards of Nursing and Medicine October 10, 2018 Business Meeting and Informal Conference minutes:

Ms. Hershkowitz reviewed the minutes as presented in the agenda.

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

NCSBN Update, President letter – this was provided for information only

OTHER MATTERS:

Board Counsel Update:

Ms. Mitchell reported that the Board has one pending appeal which was filed in Fairfax County Circuit Court. The Board denied the application for licensure because the applicant did not have LPN education in the U.S. Ms. Mitchell will represent the Board at this hearing which is scheduled for Friday, December 14, 2018 at 10 A.M.

Review of Guidance Documents (GD):

Ms. Speller-Davis said that staff have completed the review of this first set of GDs and the following GDs need to be removed for additional review by Board Counsel and staff and will be brought back to the Board for action: 90-19, 90-26, 90-34, 90-41, 90-43, 90-48, 90-48, 90-52, and 90-60.

Ms. Mitchell noted that GDs are the Board's further guidance of current laws and regulations and GDs have no force/effect of laws so additional review is necessary.

Ms. Yeatts indicated 2018 legislation required new process that effective January 1, 2019, any revisions of the GDs will be subject to a 30-day public comment period.

The Board reviewed and took action on the following GDs:

90-1: RN/LPN as First Assistants in Surgery

- Added “*or Licensed Practical Nurses*” after Registered Nurses... as First Assistants in Surgery
- Replaced “shall” with “*should*” in the second paragraph
- Deleted the last section regarding LPNs acting as first assistants in the operating room

Mr. Monson moved to adopt GD 90-1 as presented and amended. The motion was seconded and carried unanimously.

90-15: Use of Cervical Ripening Agents

There was no amendment made after review.

Mr. Monson moved to adopt GD 90-15 as presented. The motion was seconded and carried unanimously.

90-17: Cutting of Corns and Warts by RN’s and LPN’s

There was no amendment made after review.

Ms. Gerardo moved to adopt GD 90-17 as presented. The motion was seconded and carried unanimously.

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

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

Dr. Allison-Bryan rejoined the meeting at 10:00 A.M.

PUBLIC HEARING: To receive public comment on Proposed Regulations for Supervision by Nurse Practitioners of Laser Hair Removal (18VAC90-30)
There was no one signed up to comment

PUBLIC COMMENT: There was no public comment made.

VCU/BON STUDY: “*Is there a Relationship between the Level of Education of Registered Nurses and the Incidence of State Board Violations?*” – presentation by Catherine Neal, MS, RN, CMSRN, Nurse Manager at VCU Health System and Patricia M. Selig, PhD, FNP-BC, Director at Center for Advance Practice at VCU Medical Center

Ms. Neal provided copies of a PowerPoint presentation and provided information regarding the study. She noted that the conclusion of the study indicated that a “45 year old associate degree male nurse with 11 to 20 years experience working in the hospital” is at risk of State Board Violations.

Ms. Hershkowitz thanked Ms. Neal and Dr. Selig for their presentation.

RECESS:

The Board recessed at 10:55 A.M.

RECONVENTION:

The Board reconvened at 11:05 A.M.

LEGISLATION/
REGULATION:

Status of Regulatory Action:

Ms. Yeatts reviewed the chart of regulatory actions provided in the agenda.

Adoption of Final Regulatory Action on Prescribing of Opioids and Buprenorphine by Nurse Practitioners (18VAC90-30 and 40):

Ms. Yeatts stated that the emergency regulations will expire on May 6, 2019 and two comments were received regarding the final proposed regulations as provided in the handout. Ms. Yeatts noted the following amendments to the final proposed regulations:

- ❖ Evaluation of the patient for acute pain shall exclude sickle cell patients.
- ❖ Tramadol is defined as an atypical opioid.
- ❖ The urine drug screens will be conducted randomly at the discretion of the practitioner at least once a year.
- ❖ Nurse practitioners who have obtained a SAMHSA waiver and have been authorized by the Boards for autonomous practice can prescribe buprenorphine for opioid addiction without practice agreement.

Ms. Yeatts noted that the Board of Medicine adopted the final regulations on October 18, 2018 and they are presented for Board of Nursing’s adoption. Dr. Hahn moved to adopt the final regulations as presented. The motion was seconded and carried unanimously.

OTHER MATTERS (cont.): **Review of Guidance Documents (GD) – cont.:**

90-23: Decision-Making Model for Determining RN/LPN Scope of Practice

There was no amendment made after review.

Dr. Hahn moved to adopt GD 90-23 as present. The motion was seconded and carried unanimously.

90-40: Surveillance Activities Required by the OSHA Respiratory Standards

There was no amendment made after review.

Ms. Gerardo moved to adopt GD 90-40 as presented. The motion was seconded and carried unanimously.

90-42: Reinstatement following Mandatory Suspension

There was no amendment made after review.

Ms. Minton moved to adopt GD 90-42 as presented. The motion was seconded and carried unanimously.

90-46: Administration of Certain Over-the-Counter Drugs by Certified Nurse Aides

There was no amendment made after review.

Ms. Cei moved to adopt GD 90-46 as presented. The motion was seconded and carried unanimously.

CBC Audit Update:

Ms. Willinger indicated that no FBI audit was conducted as planned in October. She expected the audit will be completed prior to January 2019 Board meeting.

Ms. Willinger noted that Board of Pharmacy is utilizing criminal background check. She anticipated Physical Therapy and Counseling will begin soon.

Informal Conference Schedule for the first half of 2019:

Ms. Power reported that a final copy of the Informal Conference schedule for the first half of 2019 is provided today noting there is an extra Special Conference Committee "G" added due to 14 Board Members total.

Board Member availability for January 2019 Board Week:

Ms. Douglas stated that there are only four Board Members available on Thursday, January 31, 2019, which is not enough to establish a Panel to conduct hearings. Ms. Douglas noted that there are nine Board Members available on Monday, January 28, 2019.

Ms. Hershkowiz asked some Board Members to move from Monday to Thursday. Ms. Gerardo and Mr. Monson volunteered to do so.

EDUCATION:

Education Informal Conference Committee November 1, 2018 Minutes and Recommendations:

Ms. Minton reviewed the November 1, 2018 minutes including recommendation to withdraw approval of Chester Career College to operate a practical nursing program and approval shall be stayed with terms and conditions.

Ms. Minton moved to accept the minutes and recommendations as presented. The motion was seconded and carried unanimously.

Education Staff Report:

Dr. Saxby reported that recruitment is in process to replace Ms. Ridout and interviews are scheduled in the second week of December 2018.

Dr. Saxby added that she hopes to recruit her own position soon as her retirement is in effect on April 1, 2019.

ENVIRONMENTAL
SCAN:

Ms. Hershkowitz asked Board Members to share updates or trends in their practice environments.

Dr. Hahn reported that her research project "*Perceptions and Experience of National Regulatory Nurse Leaders in advancing the APRN Compact Policy Agenda*" has been published in Journal of the American Association of Nurse Practitioners (JAANP). Dr. Hahn thanked Ms. Hershkowitz for her role as a reviewer.

Ms. Douglas said that NCSBN Board of Directors decided to establish a task force to revisit the APRN Compact due to some conflicts between state laws and compact language. The task force will have recommendations by the next NCSBN Mid-Year meeting. Ms. Douglas stated that NCSBN is also making plans to convene a forum of board of nursing regulators to discuss inconsistencies and challenges of the APRN Consensus Model.

Ms. Douglas reported that Board staff experiencing increase calls regarding autonomous practice. She noted that some questions received require collaboration between Boards of Medicine and Pharmacy.

Ms. Phelps reported that she has seen decrease in number of opioid overdoses in some areas. She added that there is an increase in Medication Assisted Treatment (MAT) providers and positive reception of MAT in the community.

Dr. Allison-Bryan stated that PMP Annual Report is posted on DHP website, which indicates a decreasing in prescribing of opioids and total of deaths due to overdose.

RECESS: The Board recessed at 12:00 P.M.

RECONVENTION: The Board reconvened at 1:00 P.M.

CONSIDERATION OF CONSENT ORDER:

Delphine Anita Childress, RN **0001-123990**

Mr. Monson moved to accept the consent order of voluntary surrender for indefinite suspension of Delphine Anita Childress' license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

**BOARD MEMBER
DIALOGUE:**

Board Processes and Board Members' Role – the Board discussed variety of topics including:

- Is there value in having each member do a brief online evaluation after each Board Business meeting? – the Board agreed to pilot the evaluation orally for two meetings starting with January 2019 meeting and to include the Board training in this evaluation.
- What areas would Board Members like to see covered during Board Training sessions in 2019? – the Board agreed on Freedom of Information Act (FOIA), annual training by Board Counsel, regulatory updates, and Agency Subordinate process.
- Should the Board consider redistribution of the Discipline caseload, utilizing Agency Subordinates more for informal conferences and increasing Board member focus on formal hearings? – the Board agreed on more informal conferences by Agency Subordinates. The Board also discussed if there is a need to have Board Business meeting frequently, but no action was taken.
- What kind of support would be helpful to each member more effectively cope with the workload and balance your other commitments? – The Board suggested tabbing cases/evidences, page stamping the items of the business agenda, and Holiday gathering for team-building.

ADJOURNMENT: The Board adjourned at 2:35 P.M.

RECONVENED: The Board reconvened at 9:00 A.M. on Wednesday, November 14, 2018 in Board Room 2 to discuss appointment of Nominating Committee

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
Laura Freeman Cei BS, LPN, CCRP
Margaret J. Friedenber, Citizen Member
Joyce A. Hahn, PhD, RN. NEA-BC, FNAP
Dixie L. McElfresh, LPN

Virginia Board of Nursing
Business Meeting
November 13, 2018

Trula Minton, MS, RN
Mark D. Monson, Citizen Member
Meenakshi Shah, BA, RN
Grace Thapa, DNP, FNP-BC, AE-E

MEMBERS ABSENT: Ann Tucker Gleason, PhD, Citizen Member
Michelle D. Hereford, MSHA, RN, FACHE
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC

STAFF PRESENT: Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Jodi P. Power, RN, JD; Senior Deputy Executive Director
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Huong Vu, Executive Assistant
Darlene Graham, Senior Discipline Specialist
Sylvia Tamayo-Suijk, Discipline Team Coordinator

OTHERS PRESENT: Charis Mitchell, Assistant Attorney General, Board Counsel

Appointment of Nominating Committee:
Ms. Hershkowitz asked for volunteers to serve on the Nominating
Committee. Ms. Minton, Ms. Friedenberg, and Ms. McElfresh volunteered.
Ms. Douglas noted that the Committee will meet after hearings today.

ADJOURNMENT: The Board adjourned at 9:07 A.M.

Louise Hershkowitz, CRNA, MSHA
President