

VIRGINIA BOARD OF NURSING
VIRTUAL BUSINESS MEETING MINUTES
December 2, 2020

TIME AND PLACE:

The virtual meeting via Webex of the Board of Nursing was called to order at 9:00 A.M. on December 2, 2020.

Due to COVID-19 declared state of emergency and consistent with Amendment 28 to HB29 (Budget Bill for 2018-2020) and the applicable provision of §2.2-3708.2 in the Freedom of Information Act, the Board convened a virtual meeting to consider such regulatory and business matters as was presented on the agenda for the Board to discharge its lawful purposes, duties, and responsibilities.

PRESIDING:

Jennifer Phelps, BS, LPN, QMHP-A, CSAC; President

MEMBERS PARTICIPATING

VIRTUALLY:

Marie Gerardo, MS, RN, ANP-BC; First Vice President
Mark D. Monson, Citizen Member; Second Vice President
Margaret J. Friedenberg, Citizen Member
Ann Tucker Gleason, PhD, Citizen Member
James L. Hermansen-Parker, MSN, RN, PCCN-K
Louise Hershkowitz, CRNA, MSHA
Brandon A. Jones, MSN, RN, CEN, NEA-BC
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Mark D. Monson, Citizen Member
Meenakshi Shah, BA, RN
Felisa A. Smith, RN, MSA, MSN/Ed, CNE
Cynthia M. Swineford, RN, MSN, CNE

MEMBERS ABSENT:

Yvette L. Dorsey, DNP, RN

STAFF PARTICIPATING

VIRTUALLY:

Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Claire Morris, RN, LNHA; Deputy Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advance Practice
Charlette Ridout, RN, MS, CNE; Deputy Executive Director
Stephanie Willinger; Deputy Executive Director for Licensing
Jacquelyn Wilmoth, RN, MSN; Deputy Executive Director for Education
Patricia Dewey, RN, BSN; Discipline Case Manager
Francesca Iyengar, MSN, RN; Discipline Case Manager
Ann Tiller, Compliance Manager
Huong Vu, Executive Assistant
Sally Ragsdale, Discipline Specialist

OTHERS PARTICIPATING

VIRTUALLY:

Charis Mitchell, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
David Brown, DO, Department of Health Professions Director
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy

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Matt Treacy, Media Production Specialist, Department of Health Professions
Ann Hayes, Board of Nursing Staff
Cathy Hanchey, Board of Nursing Staff
Myra Barnes, Board of Nursing Staff

**PUBLIC PARTICIPATING
VIRTUALLY:**

Scott Johnson, Hancock, Daniel & Johnson, PC
Andrew Lamar, Lamar Consulting LLC
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Jill Ramsey
Kassie Schroth, Virginia Association of Nurse Anesthetists
Kim Small, VisualResearch
Diane Smith-Levine, Arizona College of Nursing
Heidi L. Boothe, RN

ESTABLISHMENT OF A QUORUM:

Ms. Phelps welcomed attendees and asked Ms. Vu to take a roll call of Board Members present. With 13 members present, a quorum was established.

Staff and public attendees were identified.

ANNOUNCEMENTS:

Ms. Phelps noted the announcements on the agenda.

- Ethlyn McQueen-Gibson, DNP, MSN, RN-BC, has been selected as a winner of the Virginia Nurses Foundation (VNF) 2020 Year of the Nurse Award. Dr. McQueen-Gibson will be celebrated for her accomplishment at the VNF Gala on December 5, 2020 virtually.

Staff Update

- Diana Wilson accepted the P-14 Licensing Specialist by Exam position and started on October 26, 2020.
- Jacquelyn Wilmoth, RN, MSN, accepted the Deputy Executive Director for Education position. She started on November 10, 2020.

UPCOMING MEETINGS:

The upcoming meetings listed on the agenda:

- The Virginia Nurses Association Board of Directors VIRTUAL meeting is scheduled for December 4, 2020 – Ms. Douglas will attend to provide Board of Nursing update.
- The Committee of the Joint Boards of Nursing and Medicine VIRTUAL business meeting is scheduled for Wednesday, December 9, 2020 at 9:00 a.m.
- The NCSBN Board of Directors VIRTUAL meeting is scheduled for December 15-16, 2020 – Ms. Douglas will attend as the NCSBN President of the Board of Directors.

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ORDERING OF AGENDA: Ms. Phelps asked if Board Members wished to add any items to the Agenda. There were no items added.

Ms. Phelps asked staff to provide updates to the Agenda. There were no additional updates.

CONSENT AGENDA: The following item was removed from the consent agenda:

- Ms. Douglas removed **E3** Mary Marshall Scholarship Report for discussion

Ms. Hershkowitz moved to accept the consent agenda as presented. The motion was properly seconded by Mr. Monson.

The poll for motion was conducted with 12 Board Members voted in favor. Ms. Shah voted by roll call in favor of the motion. The motion was carried unanimously.

Consent Agenda

B1 October 14, 2020 Board of Nursing VIRTUAL Business Meeting

B2 October 27, 2020 Telephone Conference Call

B3 November 17, 2020 Panel A – Formal Hearings

B4 November 17, 2020 Panel B – Formal Hearings

B5 November 18, 2020 Panel A - Formal Hearings

B6 November 18, 2020 Panel B – Formal Hearings

C2 Financial Report as of October 31, 2020

C3 Board of Nursing Monthly Tracking Log

C4 The Committee of the Joint Boards of Nursing and Medicine October 21, 2020 DRAFT Business meeting minutes

C5 The Committee of the Joint Boards of Nursing and Medicine October 21, 2020 DRAFT Formal Hearing minutes

C6 Massage Therapy Advisory Board November 2, 2020 VIRTUAL Meeting DRAFT minutes

- **C6a** LMT Licensure Stats as of 09 30 2020

- **C6b** LMT Case Decision as of 09 30 2020

- **C6C** LMT Case Category Report as of 09 30 2020

C7 Informal Conference Schedule from January through June 2021

C8 Executive Director Report

E1 Education Staff Report – Nursing and Nurse Aide Education Programs Update

F1 Status of Regulatory Actions

Healthcare Workforce Data Center (HWDC) Reports:

- Virginia's Registered Nurse Workforce: 2020
- Virginia's Licensed Practical Nurse Workforce: 2020
- Virginia's Certified Nurse Aide Workforce: 2020

Discussion of item removed from the Consent Agenda:

E3 Mary Marshall Scholarship Report – Ms. Douglas stated that Ms. Wilmoth has provided a memo with the history of the Mary Marshall Scholarship, which is administered by VDH and has been providing scholarships to RN and LPN students since 1991. The dispersed payments for the last three years was \$44,300.00 in 2018, \$51,595.00 in 2019, and \$50,000.00 in 2020.

Ms. Douglas wanted the Board to be aware the following:

- With the long term care focus area of the Workforce group's on-going discussion attended by Ms. Ridout in mind, the Board may want to consider making nurse aide students eligible for the scholarship in the future
- It appears that not many nursing students are aware of the scholarship. The Board may want to consider increasing awareness of the scholarship through advertising through nursing associations.
- Nursing students are facing financial hardship currently due to COVID-19
- Because a special dispensation from the General Assembly (GA) would be required to increase the cap of \$65,000.00 per fiscal year, the upcoming 2021 GA session may be the optimal time to move forward with a recommendation to increase the scholarship amount above \$65,000.00.

Mr. Monson stated that, when he was initially employed at DHP in 2002 the \$65,000 cap was in place and has not changed since 1991. He is unaware how the \$65,000.00 cap was established but noted that education programs are much more expensive now than when the scholarship was initiated. Mr. Monson endorsed Ms. Douglas' suggestion to increase the amount and asked the Board to review the following regarding the scholarship:

- How it operates
- Who it involves
- Affect of raising the collected amount from licensees
- The degree in which VDH promotes this scholarship

Ms. Hershkowitz stated that she is in support of taskforce or dialogue within DHP to increase the amount and CNAs should be included.

Dr. McQueen-Gibson, as RN Board Member and as a nurse in academia, stated that she firmly supports looking at the scholarship in two aspects:

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- Many students have withdrawn from education programs this academic year due to dire financial need
- The workgroup should be composed of diverse stakeholders, including RN/LPN/CNA programs and consumers

Dr. Brown said it is a great idea for the Board to move forward as follows:

- Initiate the process by raising the amount now (appropriations will not be an issue)
- Convene a workgroup to address broader issues as suggested

Ms. Douglas noted that this process will be done in partnership with VDH since DHP is not the sole agency for this scholarship.

Ms. Hershkowitz motioned for the Board to move forward with requesting the upcoming GA to increase the amount above \$65,000.00 and to convene a workgroup in conjunction with VDH to address distribution of funds, diversification of stakeholders, and consideration of including CNAs in the scholarship. The motion was properly seconded by Ms. Smith.

Mr. Monson suggested that a Board Member should be part of the workgroup for continuing Board involvement and he will be happy to volunteer.

Ms. Douglas said that the Board can make those recommendations to VDH since historically DHP has not been the lead.

A roll call was taken and the motion was carried unanimously.

DIALOGUE WITH
DHP DIRECTOR:

Dr. Brown reported the following:

- Legalization of recreational use of cannabis for adults – this year workgroups were convened by the Secretary of Health to discuss the future of medical marijuana and by the Secretary of Agriculture to discuss the recreational use of marijuana for adults. Also there was a study by the Joint Legislative Audit & Review Commission (JLARC) on marijuana in Virginia. As a result, the Governor has announced his support and there legislation will be introduced during the upcoming GA session moving Virginia toward adult use of recreational marijuana. It will take 2-3 years to become fully implemented if the legislation is passed by the 2021 GA.
- The 2021 GA - normally Virginia alternates between two sessions; short session runs 45 days; and long session runs 60 days. The 2021 GA will be conducted virtually over a 30-day period with limited bills being considered. However, the nurse practitioner bill that was pre-filed to reduce the collaborative agreement from five years to 2 years will be introduced.

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Dr. Allison-Bryan reported on the COVID-19 vaccines as follows:

- Pfizer and Moderna, the manufacturers of the vaccines, have moved from Phase Three to Active Phase for emergency use authorization for the vaccines
- Vaccines will be available within the next two weeks
- Safety and efficacy have not been compromised in the vaccine development process
- The two-dose vaccine regimen will occur either three weeks or four weeks apart
- Virginia has submitted its plan for distribution to the federal government which is posted on VDH website.
- First-line healthcare professionals and those who work in long term care facilities will be given the vaccines first. This is called the closed point of distribution. Walgreen and CVS pharmacists have teamed up with VDH to go into hospital and long term care facilities to administer the vaccines
- Nurses and physicians, who are licensed by DHP and authorized to administer medications, will be asked to volunteer in the Medical Reserve Corp for the distribution of the vaccines in the hospitals and in long term care facilities.

Mr. Monson asked the impact of recreational use of marijuana when a licensee tests positive and is in front of the Board for disciplinary action.

Ms. Douglas said that the Board has received an increase in the numbers of calls regarding this matter. Ms. Douglas added that NCSBN has marijuana guidelines available on its website. Ms. Douglas noted that the statute is still the same regarding impairment and the disciplinary process does not change.

Ms. Phelps thanked Drs. Brown and Allison-Bryan for their reports.

DISPOSITION OF
MINUTES:

None

REPORTS:
OTHER MATTERS:

None

Board Counsel Update:

Ms. Mitchell reported that the Board currently has a pending appeal:

- **The Court of Appeal** – CNA Fashakin filed an appeal after the Board denied her reinstatement application. The Richmond Circuit Court considered the appeal untimely. The case has now been appealed to the Court of Appeals.

Presentation of Slate of Candidates and Election of Officers:

Ms. Phelps thanked Ms. Hershkowitz and Ms. Friedenberg, for serving on the Nominating Committee.

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Consideration of the Slate of Candidates for Officers who will begin their terms on January 1, 2021. Ms. Phelps added that staff has provided the following documents electronically:

- **D1a** November 18, 2020 Nominating Committee Meeting DRAFT Minutes
- **D1b** Duties and Functions of Board of Nursing Officers
- **D1c** November 24, 2020 Slate of Candidates for 2021 Officers Memo

Pursuant to the Bylaws (Guidance Documents 90-57), the Nominating Committee presents the following Slate of Candidates:

<u>President:</u>	Marie Gerardo, LNP Member (2 nd term expires 2022)
<u>First Vice-President:</u>	Mark D. Monson, Citizen Member (2 nd term expires 2022) Ann T. Gleason, PhD, Citizen Member (1 st term expires 2024)
<u>Second Vice-President:</u>	James Hermansen-Parker, RN Member (1 st term expires 2023) Brandon A. Jones, RN Member (unexpired term expires 2021) Ethlyn McQueen-Gibson, RN Member (1 st term expires 2023)

Ms. Phelps asked if there are additional nominations from the floor for the Office of President to be added to the Slate. None was received.

Dr. McQueen-Gibson noted that her 1st term will expire in 2021, not 2023 as stated in **D1c** November 24, 2020 Slate of Candidates for 2021 Officers Memo. Ms. Vu confirmed that Dr. McQueen-Gibson's 1st term will expire in 2021.

Ms. Phelps said that, for the Office of President, the nomination is Ms. Gerardo. A roll call was taken and 13 voted in favor of Ms. Gerardo.

Ms. Gerardo is elected as President.

Ms. Phelps said that, for the Office of First Vice-President, the nominations are:

Mr. Monson → a roll call was taken and 8 votes in favor of Mr. Monson
Dr. Gleason → a roll call was taken and 5 votes in favor of Dr. Gleason

Mr. Monson is elected as First Vice-President

Ms. Phelps said that, for the Office of Second Vice-President, the nominations are:

Mr. Hermansen-Parker ➔ a roll call was taken and 1 vote in favor of Mr. Hermansen-Parker

Mr. Jones ➔ a roll call was taken and 5 votes in favor of Mr. Jones

Dr. McQueen-Gibson ➔ a roll call was taken and 8 votes in favor of Dr. McQueen-Gibson

Dr. McQueen-Gibson is elected as Second Vice-President

PUBLIC COMMENT:

Ms. Phelps indicated that, per the meeting notice on the Regulatory Townhall and the agenda package, comments will be received during the public comment period from those persons who submitted an email to Huong Vu no later than 8 a.m. on December 2, 2020 indicating that they wish to offer comment.

Ms. Phelps asked if anyone has signed up to comment. Ms. Vu reported that there were no requests to offer public comment as of 8 a.m. today and no one was present on the call to make comment.

RECESS:

The Board recessed at 10:14 A.M.

RECONVENTION:

The Board reconvened at 10:30 A.M.

PRESENTATION:

Changes to Certified Nurse Aide (CNA) Sanction Reference Point (SRP) Worksheet by Kim Small, VisualResearch, Inc.

Ms. Phelps welcomed Ms. Small and invited her to proceed with the presentation.

Ms. Small stated that the Board was provided the following documents electronically:

- Revised CNA SRP Presentation
- CNA SRP Worksheet Instructions
- SRP Worksheet for CNAs only

Ms. Small thanked Board members and staff for their input during the interview process regarding revising the SRP for CNAs. Ms. Small provided the following information in the presentation:

- Current CNA SRP worksheet was adopted for use in March 2006
- The worksheet currently being used relies on data from 2002-2004 and 304 cases
- The database from the proposed worksheet is derived from data for fiscal year 2019 consisting of 78 cases.

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- Observations and worksheet development methodology
- The proposed worksheet correctly predicts 80% of cases
- Case type scoring
- Case types within groups
- Offense and respondent factor scoring
- Defining the factors
- Recommended sanctions
- Removed offense and respondent factors

Ms. Small stated that she will answer any questions Board Members and staff have regarding the proposed CNA SRP worksheet.

Clarification for how offense and respondent factors were discussed and the Board suggested that real cases should be used in the training of the worksheet.

The Board also discussed that ***failure to participate with DHP*** score is not necessary since the respondent is not obligated to appear at an informal conference nor to speak to the DHP investigator; therefore, the Board should consider excluding these factors from the SRP.

Ms. Hershkowitz requested to delete “***For instance a patient injury resulting from a fall would not be scored***” in Step 2b of the Offense and Respondent factors. All agreed.

Mr. Monson moved to remove item f (***Failure to participate with DHP***) from the Offense and Respondent Score and the percentage to be recalculated. The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion was carried with 11 votes in favor of the motion. Dr. Gleason and Ms. Smith opposed the motion.

Ms. Douglas asked Ms. Small to inform staff when the worksheet is recalculated and it will be placed on the agenda of a future meeting.

Ms. Small thanked the Board for their suggestions.

Heidi L. Boothe, RN joined the meeting at 11:33 A.M.

AGENCY SUBORDINATE RECOMMENDATION CONSIDERATION:

#6 Heidi L. Boothe, RN

0001-240412

Ms. Phelps instructed Ms. Boothe that she has five minutes to address the Board regarding her Agency Subordinate Recommendation and no new information can be provided.

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CLOSED MEETING:

Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 11:44 A.M. for the purpose of considering the Agency Subordinate Recommendation regarding Heidi L. Boothe, RN. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Dr. Hills, Ms. Wilmoth, Ms. Ridout, Ms. Willinger, Ms. Morris, Ms. Iyengar, Ms. Dewey, Ms. Tiller, 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 Board in its deliberations. The motion was properly seconded by Ms. Gerardo. A roll call was taken and the motion was carried unanimously.

RECONVENTION:

The Board reconvened in open session at 11:52 A.M.

Ms. Hershkowitz 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 properly seconded by Ms. Smith. A roll call was taken and the motion was carried unanimously.

Ms. Gerardo moved to accept the recommended decision of the agency subordinate to indefinitely suspend the license of Heidi L. Boothe to practice professional nursing in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Boothe's entry into a Contract 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 properly seconded by Ms. Shah. A roll call was taken and the motion was carried unanimously.

Ms. Phelps asked if there are additional Respondents who would like to address the Board regarding their Agency Subordinate Recommendation.

Ms. Vu reported that there are no additional Respondents who would like to address the Board regarding their Agency Subordinate Recommendation.

CLOSED MEETING:

Ms. Hershkowitz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 12:02 P.M. for the purpose of considering the remaining Agency Subordinate Recommendation. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Dr. Hills, Ms. Wilmoth, Ms. Ridout, Ms. Willinger, Ms. Morris, Ms. Iyengar, Ms. Dewey, Ms. Tiller, 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 Board in its deliberations. The motion was properly seconded by Ms. Smith. A roll call was taken and the motion was carried unanimously.

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RECONVENTION:

The Board reconvened in open session at 12:19 P.M.

Ms. Hershkowitz 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 properly seconded by Ms. Smith. A roll call was taken and the motion was carried unanimously.

#1 Dawn Marie Bernard Pereira, RN

0001-187724

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to take no action at this time against Dawn Marie Bernard Pereira, contingent upon Ms. Pereira's compliance with terms and conditions. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#2 – Ashley Elizabeth Bond Stratton, LPN

0001-084160

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to indefinitely suspend the license of Ashley Elizabeth Bond Stratton to practice practical nursing in the Commonwealth of Virginia. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#3 – Christopher Michael Mitchell, CNA

1401-153200

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to indefinitely suspend the certificate of Christopher Michael Mitchell to practice as a nurse aide in the Commonwealth of Virginia. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#4 – Christine Marie Jordan, LPN

0002-097124

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to reprimand Christine Marie Jordan and within 90 days from entry of the Order, Ms. Jordan to provide written proof satisfactory to the Board of successful completion of the following NCSBN courses:

- *Professional Accountability & Legal Liability for Nurses;*
- *Right a Wrong: Ethics and Professionalism in Nursing; and*
- *Ethics of Nursing Practice*

The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

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#5 – Scott Kenneth Benson, RN

0001-222294

Mr. Monson moved to accept the recommended decision of the agency subordinate to reprimand Scott Kenneth Benson. The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion was carried unanimously.

#7 – Ryan Keri Patterson, RN

0001-231454

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to suspend the license of Ryan Keri Patterson to practice professional nursing in the Commonwealth of Virginia. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#8 – Randy Lee Reedy, RN

0001-241141

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to indefinitely suspend the license of Randy Lee Reedy to practice professional nursing in the Commonwealth of Virginia for a period of not less than one year from the date of entry of the Order. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#9 – Clarissa Bascon Smith, LPN

0002-077154

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to suspend the license of Clarissa Bascon Smith to practice practical nursing in the Commonwealth of Virginia. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

**#10 – Martha Atwell, RN SC License No. 65157 with
Multistate Privileges**

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to reprimand Martha Atwell. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#11 – Sharon Lynn Jenkins, RN

0001-146193

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to impose no sanction against Sharon Lynn Jenkins. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

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#12 – Lydia Chakeela Bernadette Wells, RMA

0031-006209

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to revoke the registration of Lydia Chakeela Bernadette Wells to practice as a medication aide in the Commonwealth of Virginia. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#13 – Lyndia Chakeela Bernadette Wells, CNA

1401-100379

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to revoke the certificate of Lydia Chakeela Bernadette Wells to practice as nurse aide in the Commonwealth of Virginia and enter a Finding of Abuse and Neglect against Ms. Wells in the Virginia Nurse Aide Registry. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#14 – Stephanie Lynn Abel Mitchell, LPN

0002-047304

Ms. Hershkowitz moved to modify the recommended decision of the agency subordinate to indefinitely suspend the license of Stephanie Lynn Abel Mitchell to practice practical nursing in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Mitchell's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) within 60 days of the date the Order is entered and comply with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was properly seconded by Ms. Gerardo. A roll call was taken and the motion was carried with 10 votes in favor of the motion. Dr. McQueen-Gibson, Mr. Monson and Ms. Phelps opposed the motion.

#15 – Elizabeth Egan, LPN

0002-082252

Ms. Hershkowitz moved to modify the recommended decision of the agency subordinate to indefinitely suspend the license of Elizabeth Egan to practice practical nursing in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Egan's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) within 60 days of the date the Order is entered and comply with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was properly seconded by Ms. Shah. A roll call was taken and the motion was carried with 11 votes in favor of the motion. Mr. Monson and Ms. Phelps opposed the motion.

#16 – Katherine Rose Newsham, RN

0001-280330

Mr. Hermansen-Parker moved to accept the recommended decision of the agency subordinate to indefinitely suspend the license of Katherine Rose

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Newsham to practice professional nursing in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Newsham's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) within 60 days of the date the Order is entered and comply with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

RECESS: The Board recessed at 12:25 A.M.

RECONVENTION: The Board reconvened at 12:35 A.M.

REGULATIONS/
GUIDANCE
DOCUMENTS:

F2 Adoption – Final Regulations for Nurse Aide Education Programs:

Ms. Phelps stated that staff has provided the following document electronically:

- **F2 Adoption - Final Regulations for Nurse Aide Education Programs**

Ms. Phelps asked Ms. Yeatts to proceed.

Ms. Yeatts stated that this action began as a periodic review of regulations by a task force consisting of multiple nurse aide stakeholders resulting in proposed regulations which were available for public comment for 60 days ending November 13, 2020. One comment was received. Ms. Yeatts added that the major changes to the proposed regulations are:

- The change in number of hours required for nurse aide education program from 120 to 140 clock hours with at least 20 hours devoted to additional hours in clinical education.
- Increasing the instructor training course to a minimum of 12 hours to be completed by all prospective nurse aide education program instructors.

Ms. Yeatts noted that the one comment received was from Botetourt County Public Schools with a budgetary concern should a restriction be placed on the nurse aide instructor assuming other duties while instructing or supervising students. The commenter indicated that many school divisions do not have the budget to hire both a CNA instructor and school nurse.

Ms. Yeatts opined that, in response to the comment received, the Board has the following options:

- To leave the proposed language as is; or
- To include a request-for-exception by a nurse aide program

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Ms. Yeatts provided draft language for the Board's consideration if the Board chooses this option.

Mr. Monson said that he was involved in re-drafting the regulations and added that the concern raised in the comment received is valid.

Ms. Yeatts shared the draft language that staff had prepared in 18VAC90-26-30(B)(2) which is as follows: "A program may request an exception to the restriction on assumption of other duties. The executive director shall be authorized to make the decision on requests for exception or may refer to an informal fact-finding committee for consideration as needed."

Ms. Mitchell suggested adding "of the Board" right after "The executive director." All agreed.

Mr. Monson moved to approved the draft language prepared by staff and amended by Ms. Mitchell as follows:

"A program may request an exception to the restriction on assumption of other duties. The executive director of the Board shall be authorized to make the decision on requests for exception or may refer to an informal fact-finding committee for consideration as needed."

The motion was properly seconded by Ms. Smith. A roll call was taken and the motion carried unanimously.

Ms. Swineford noted that the requirement of "direct client geriatric long-term care experience" as proposed in 18VAC90-26-30.C(1)(a)(2) would preclude a nurse who has had experience with geriatric patients but not in long-term care from working in that environment.

Ms. Wilmoth noted that Federal law 42 CFR § 483-152(a)(5)(i) states that requirement for approval of a nurse aide training.

§ 483.152 Requirements for approval of a nurse aide training and competency evaluation program.

(a) For a nurse aide training and competency evaluation program to be approved by the State, it must, at a minimum -

(5) Meet the following requirements for instructors who train nurse aides;

(i) The training of nurse aides must be performed by or under the general supervision of a registered nurse who possesses a minimum of 2 years of nursing experience, at least 1 year of which must be in the provision of long term care facility services;

Ms. Yeatts stated that this Federal Law applies to the primary instructor in 18VAC90-26-30(1)(b) but does not apply to other instructional personnel.

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Ms. Ridout confirmed that this Federal Law does not apply to other instructional personnel. Ms. Mitchell concurred.

Ms. Hershkowitz stated that from the proposed language, it appears that the Board is unnecessarily restricting the availability of faculty by imposing the same requirement on non-primary instructors.

Ms. Willinger suggested that “**long-term**” be deleted from the proposed language.

Ms. Hershkowitz moved to delete the term “**long-term**” from 18VAC90-26-30.C(1)(a)(2) and C(1)(b)(2). The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

Mr. Monson inquired as to whether the regulatory waivers issued in response to COVID should be incorporated into the revised regulations. Ms. Yeatts replied that they would be new issues that cannot be addressed in the adoption of the Notice of Intended Regulatory Action (NOIRA) or in the proposed regulations. Ms. Douglas added that if the issues are non-controversial, then they can be considered as a fast-track action.

Mr. Monson moved to adopt the final regulations for nurse aide education programs as amended today. The motion was properly seconded by Ms. Smith. A roll call was taken and the motion was carried unanimously.

Revisions to Guidance Documents (GDs)

Ms. Phelps stated that staff provided the following documents electronically:

F3 Revisions to Guidance Documents (GDs)

- **GD 90-16 Evaluation Form and Protocols for Adult Immunizations**
- **GD 90-19 Epidural Anesthesia by RN's and LPN's**
- **GD 90-55 Joint Statement of the Department of Health and the Department of Health Professions on Impact of Criminal Convictions on Nursing Licensure or Certification and Employment in Virginia**
- **GD 90-59 Impact of Criminal Convictions on Registration of Medication Aides and Licensure of Massage Therapist in Virginia (recommendation from Massage Therapy Advisory Board)**

Ms. Phelps asked Ms. Yeatts to proceed. Ms. Yeatts noted that GDs have to be reviewed every four years and the GDs listed on the agenda are up for revision.

Ms. Yeatts suggested that she review each GD and then the Board can vote on all of them at the same time. All agreed.

GD 90-16 Evaluation Form and Protocols for Adult Immunizations – Ms. Yeatts said that this GD has been revised to eliminate specific detailed

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information about each individual type of immunization and include references that are continually being updated. Ms. Yeatts added that on the first page the correct regulations is 18VAC90-21-50 not 18VAC90-21-10.

GD 90-19 Epidural Anesthesia by RN's and LPN's – Ms. Yeatts said that this GD has been reviewed and staff recommends that it be reaffirmed without amendments.

GD 90-55 Joint Statement of the Department of Health and the Department of Health Professions on Impact of Criminal Convictions on Nursing Licensure or Certification and Employment in Virginia – Ms. Yeatts has reviewed this GD and changes are in red. Ms. Yeatts added that Ms. Mitchell further suggested additional changes:

- Item 3 on page 4 → deleting “**disorder**” and “**could**”
- NOTE on page 5 → deleting “**disorder**”

GD 90-59 Impact of Criminal Convictions on Registration of Medication Aides and Licensure of Massage Therapist in Virginia (recommendation from Massage Therapy Advisory Board) – Ms. Yeatts stated that changes are in red and additional changes suggested by Ms. Mitchell are:

- Item 3 on page 3 → replacing “*chemical dependency condition*” with “**substance use**” and deleting “**could**”
- NOTE on page 4 → replacing “*chemical dependency condition*” with “**substance use**”

Ms. Willinger suggested editorial clean up by inserting hyperlinks as in GD 90-55 to provide more updated information. All agreed.

Ms. Hershkowitz moved to revise GD 90-16, to re-affirmed GD 90-19, to revise GD 90-55 and to revise GD 90-59 as presented and further amended. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

EDUCATION:

E2 - 2021 Dates for Education Informal Conference Committee Meetings:

Ms. Wilmoth stated that she has sent to Board Members who have served on the Committee in the past but as of today she only has January 12, 2021 covered. She asked for additional volunteers to serve before assigning the meeting dates.

Ms. Hershkowitz stated that she can participate if it is scheduled for the first six month. Ms. Phelps volunteered as well. Mr. Monson said he can participate in the May and July meetings if needed.

Ms. Wilmoth asked that interested Board Members please let her know if they can volunteer.

Updates on additional Guidance Documents (GDs)

- **GD 90-4** *Opinion on how licensure as a nurse relates to service on a volunteer rescue squad*
- **GD 90-63** *Registered Nurses and Procedural Sedation*

Ms. Douglas reported that she is still waiting to receive comments/changes from expertise groups regarding these two GDs.

Dr. McQueen-Gibson said that she would like to participate in the discussion regarding GD 90-4. Ms. Douglas asked Dr. McQueen-Gibson to review it and share the feedback with Ms. Douglas prior to presenting it to the Board for consideration.

MEETING DEBRIEF:

Discussion regarding the business meeting process:

The following were well received by Board Members:

- Virtual meeting is preferred
- Fewer technical difficulties than the last meeting
- Good discussion
- Fresh Slate of Candidates
- Appreciate staff for all that they do to carry out the virtual meeting

The following needs improvement per Board Members:

- Utilizing polling next time instead of roll call
- Bring back Board Member training
- Make sure students are aware when virtual meetings are scheduled so that they can participate

Ms. Yeatts stated that Freedom of Information Act (FOIA) requires roll call during virtual meeting. Ms. Douglas stated that staff will review the requirements to ensure proper procedures are in place for virtual meetings.

Ms. Douglas asked Board Members to hold dates in January 2021 and staff are planning to conduct formal hearings virtually.

ADJOURNMENT:

The Board adjourned at 1:52 P.M.

Jennifer Phelps, BS, LPN, QMHP-A, CSAC
President