VIRGINIA BOARD OF NURSING

BUSINESS MEETING

Revised Final Agenda

Department of Health Professions – Perimeter Center
9960 Mayland Drive, Conference Center 201 – **Board Room 4**
Henrico, Virginia 23233

Tuesday, July 20, 2021 at 9:00 A.M. – Quorum of the Board

CALL TO ORDER: Marie Gerardo, MS, RN, ANP-BC; President

ESTABLISMENT OF A QUORUM.

ANNOUNCEMENT

Staff Update:

- **Candis Stoll** accepted the P-14 Nursing Discipline Specialist position and started on May 25, 2021
- **Brandi Wood** accepted the P-14 Licensing Specialist, Nurse Practitioner position and started on June 7, 2021
- **Charlette Ridout, RN, MS, CNE**, accepted the P-14 Probable Cause Reviewer and Nurse Aide Education Program Inspector position and started on June 21, 2021
- **Christina Bardgill, BSN, MHS**, accepted the Deputy Executive Director for Nurse Aide/Medication Aide and Massage Therapy Programs, and started on June 25, 2021 (**replacing Charlette Ridout**).
- **Bethany Fields** accepted the P-14 Nurse Aide Inspector position

A. UPCOMING MEETINGS:

- The ***VIRTUAL*** Nurse Licensure Compact (NLC) Annual meeting is scheduled for August 17, 2021 – Ms. Douglas will attend as Commissioner
- The ***VIRTUAL*** NCSBN Annual meeting is scheduled for August 18-19, 2021– Ms. Douglas will attend as President of NCSBN Board of Directors. Mr. Jones, Board Member, and Ms. Wilmoth, Deputy Executive Director for Education, will serve as Delegates on behalf of Virginia Board of Nursing. Dr. McQueen-Gibson, Board Member, and Dr. Hills, Deputy Executive Director for Advanced Practice, will serve as alternate Delegates on behalf of the Virginia Board of Nursing
- The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for Wednesday, October 13, 2021 at 9:00 am.

REVIEW OF THE AGENDA:

- Additions, Modifications
- Adoption of a Consent Agenda
- **CONSENT AGENDA**
  - **B1** May 17, 2021 Formal Hearings*
  - **B2** May 18, 2021 Business Meeting*
  - **B3** May 19, 2021 Panel A – Formal Hearings*
  - **B4** May 19, 2021 Panel B – Formal Hearings*

B5 May 20, 2021 Formal Hearings*
B6 June 22, 2021 Telephone Conference Call*
B7 June 29, 2021 Telephone Conference Call*
B8 July 12, 2021 Telephone Conference Call***

C1 Financial Reports as of May 31, 2021**
C2 Board of Nursing Monthly Tracking Log**
C3 Agency Subordination Recommendation Tracking Log**
C4 HPMP Report as of June 30, 2021**
C5 Executive Director Report***
- ❖ NCSBN Letter from the President May 24, 2021***

DIALOGUE WITH DHP DIRECTOR OFFICE– Dr. Brown and/or **Dr. Allison-Bryan**

B. DISPOSITION OF MINUTES – None

C. REPORTS
- **C6** - RMA Curriculum Committee June 9, 2021 Meeting Minutes – **Ms. Smith***
- **C7** - The Committee of the Joint Boards of Nursing and Medicine June 16, 2021 Business Meeting DRAFT minutes – **Ms. Gerardo*****
- **C8** - Nurse Practitioner Side-by-Side Comparison Table (**FYI**)*
- **C9** - Communication sent to all CNSs on May 27, 2021 (**FYI**)*
- **C10** - Communication sent to all CNMs on June 24, 2021 (**FYI**)*
- **C11** - NCSBN NCLEX Review Sub Committee Report **– Mr. Jones**

D. OTHER MATTERS:
- Board Counsel Update (**verbal report**)
- **D1** - 2022 Board of Nursing Meeting Dates* – **Ms. Gerardo/Ms. Douglas**
- **D2** - Summary of Recommendations to the 2021 NCSBN Delegate Assembly – **Ms. Douglas****
- Discussion of Volunteers to the Nominating Committee

E. EDUCATION:
- Education Update – **Ms. Wilmoth** (**verbal report**)

F. REGULATIONS/LEGISLATION– Ms. Yeatts
F1 – Chart of Regulatory Actions as of June 6, 2021**
F2 – Regulatory/Policy Actions – 2021 General Assembly**
F3 – Adoption of Exempt Regulations Pursuant to 2021 Legislation**
F4 – Adoption of Proposed Regulations for CNS Registration as a Fast-Track action**
F5 – Adoption of Notice of Regulatory Action (NOIRA) - Licensure of Certified Midwives**
F6 – Adoption of Proposed Draft Guidance Document (GD) 90-56 – *Practice Agreement Requirements for License Nurse Practitioners (***recommendation from the Committee of the Joint Boards of Nursing and Medicine**)**

10:00 A.M. – PUBLIC COMMENT
- Letter received from MSV on July 16, 2021
- Letter received from VAFP on July 16, 2021
- Letter received from VACEP on July 17, 2021

HB 793 – Consideration of DRAFT Report regarding Autonomous Practice Designation - **Dr. Hills/Ms. Douglas*****

12:00 P.M. - Lunch

1:00 P.M. – Revised Sanctioning Reference Points (SRP) Worksheets for Certified Nurse Aides (CNAs), Nurses and Registered Medication Aides (RMAs) by Neal Kauder and Kim Small, VisualResearch**

2:30 P.M. - EDUCATION INFORMAL CONFERENCE COMMITTEE MINUTES AND RECOMMENDATIONS

E1 June 8, 2021 Education Informal Conference Committee minutes*

- June 8, 2021 Education Informal Conference Committee Recommendations regarding:
  - ❖ Fortis College – ADN Program (US28408900), Richmond*

E2 July 6, 2021 Education Informal Conference Committee minutes**

- July 6, 2021 Education Informal Conference Committee Recommendations regarding:
  - ❖ Salvation Academy – Nurse Aide Program (100689), Alexandria

2:30 P.M. – AGENCY SUBORDINATE RECOMMENDATION CONSIDERATION

#1 – Whitney Page Gibson, LPN*
#2 – Erin Lorayne Swanson, RN*
#3 – Anissa Jo Neal Shotwell, CNA*
#4 – Chavelle Denita Dickens, LPN*
#5 – Sherri L. Brown, LPN*
#6 – Selina Renee McCauley Payne, CNA*
#7 – Heather Tinnell, RN*
#8 – Christina M. Pye, CNA*
#9 – Justin Blynt, LPN*
#10 – Lisa England, RN*

G. CONSENT ORDERS: (Closed Session)

G1 – Diane Daves Horton, RN*
G2 – Charmayne L. Lanier-Eason, RN*
G3 – Heather D. Riggleman, LMT*
G4 – Melissa Miller, RN Applicant*
G5 – Ryan Joseph Green, LMT*
G6 – Sarah Lynn Watson, RN***
G7 – Marla Renee Depriest-Hubbard, LPN

3:30 P.M. - POSSIBLE SUMMARY SUSPENSION CONSIDERATION

- ➢ None

MEETING DEBRIEF

ADJOURNMENT

(* mailed 6/30) (** mailed 7/9) (***mailed 7/14)

VIRGINIA BOARD OF NURSING
VIRTUAL **FORMAL HEARINGS**
May 17, 2021

TIME AND PLACE: The virtual Webex meeting of the Virginia Board of Nursing was called to order at 9:05 A.M. on May 17, 2021.

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.

BOARD MEMBERS PARTICIPATING VIRTUALLY:
Marie Gerardo, MS, RN, ANP-BC, President
Margaret J. Friedenberg, Citizen Member
A Tucker Gleason, PhD, Citizen Member
Brandon Jones, MSN, RN, CEN, NEA-BC
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Jennifer Phelps, BS, LPN, QMHP-A, CSAC (joined at 9:22 A.M.)
Felisa Smith, RN, MSA, MSN/Ed., CNE

STAFF PARTICIPATING VIRTUALLY:
Jay Douglas, RN, MSM, CSAC, FRE, Executive Director
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advance Practice
Claire Morris, RN, LNHA, Deputy Executive Director
Francesca Iyengar, RN, MSN, Discipline Case Manager
Sylvia Tamayo-Suijk, Senior Discipline Specialist
Sally Ragsdale, Discipline Specialist
Huong Vu, Executive Assistant

OTHERS PARTICIPATING VIRTUALLY:
Charis Mitchell, Assistant Attorney General, Board Counsel
David Kazzie, Adjudication Consultant, Administrative Proceedings Division (APD)
Cynthia Gaines, Adjudication Specialist, APD
Julia Bennett, Deputy Executive Director, APD
Rebecca Ribley, Adjudication Specialist, APD
Ann Tiller, Compliance Manager, Board of Nursing
Renee White, Investigator Supervisor, DHP Enforcement
Jennifer Challis, Investigator Supervisor, DHP Enforcement
Investigator M. Holder

ESTABLISHMENT OF A PANEL: With six members of the Board present, a panel was established.

FORMAL HEARING: **Candi Nichole Cressel, CNA Reinstatement Applicant**
1401-136845

Ms. Cressel did not participate.

David Kazzie, Adjudication Consultant for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter with Veteran Reporters, recorded the proceeding.

Renee White, Senior Investigator, Department of Health Professions, participated and testified.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:29 A.M., for the purpose of deliberation to reach a decision in the matter of Candi Nichole Cressel. Additionally, Dr. Gleason moved that Ms. Douglas, Dr. Hills, Ms. Iyengar, Ms. Tamayo-Suijk, Ms. Vu, and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 9:36 A.M.

Dr. Gleason 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. Friedenberg. A roll call was taken and the motion carried unanimously.

ACTION: Mr. Jones moved that the Board of Nursing deny the reinstatement of Candi Nichole Cressel's certificate to practice as a nurse aide in the Commonwealth of Virginia. The basis for this decision will be set forth in a final Board Order which will be sent to Ms. Cressel at her address of record. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 9:38 A.M.

RECONVENTION: The Board reconvened in open session at 10:04 A.M.

FORMAL HEARING: **Francois Atra, LPN** **0002-090616**

Mr. Atra participated.

Cynthia Gaines, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter with Veteran Reporters, recorded the proceeding.

Jennifer Challis, Senior Investigator, Department of Health Professions, participated and testified.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:20 A.M., for the purpose of deliberation to reach a decision in the matter of Francois Atra. Additionally, Dr. Gleason moved that Ms. Douglas, Dr. Hills, Ms. Iyengar, Ms. Tamayo-Suijk, Ms. Vu, and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 11:34 A.M.

Dr. Gleason 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. Friedenberg. A roll call was taken and the motion carried unanimously.

ACTION: Mr. Jones moved that the Board of Nursing dismiss the case against Francois Atra. The basis for this decision will be set forth in a final Board Order which will be sent to Mr. Atra at his address of record. The motion was properly seconded by Dr. McQueen-Gibson. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 11:35 A.M.

Robin L. Hills

For Jay Douglas, RN, MSM, CSAC, FRE
Executive Director

VIRGINIA BOARD OF NURSING
VIRTUAL **BUSINESS MEETING MINUTES**
May 18, 2021

TIME AND PLACE: The virtual meeting via Webex of the Board of Nursing was called to order at 9:00 A.M. on May 18, 2021.

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: Marie Gerardo, MS, RN, ANP-BC; President

MEMBERS PARTICIPATING VIRTUALLY:
Mark D. Monson, Citizen Member; First Vice President
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC; 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
Mark D. Monson, Citizen Member
Jennifer Phelps, BS, LPN, QMHP-A, CSAC
Meenakshi Shah, BA, RN
Felisa A. Smith, RN, MSA, MSN/Ed, CNE
Cynthia M. Swineford, RN, MSN, CNE

MEMBER ABSENT: Yvette L. Dorsey, DNP, RN

STAFF PARTICIPATING VIRTUALLY:
Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director
Robin Hills, RN, DNP, WHNP; Deputy Executive Director for Advanced Practice
Claire Morris, RN, LNHA; 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
Christine Smith, RN, MSN; Nurse Aide/RMA Program Manager
Randall Mangrum, RN, DNP; Nursing Education Program 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
Gary Justus, Board of Nursing (BON) Staff
Melissa Gregory, BON Staff
Marie Molnar, BON Staff
Joseph Corley, BON Staff
Alesia Baskin, BON staff
Cathy Hanchey, BON Staff
Tammie Jones, Adjudication Consultant, Administrative Proceedings Division (APD)
Pamela Twombly, RN, MSHA, Deputy Director, Enforcement Division

PUBLIC PARTICIPATING VIRTUALLY:

Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Janet Wall, MS, CEO of the Virginia Nurses Association (VNA)/Virginia Nurses Foundation (VNF)
Scott Johnson, Hancock, Daniel & Johnson, PC
Ben Traynham, Hancock, Daniel & Johnson, PC
Kassie Schroth, Virginia Association of Nurse Anesthetists
Jerry J. Gentile, Department of Planning Budget (DPB)
Diane Smith-Levine, Arizona College of Nursing
Sarah W. Taylor, MHR, MSN, AGCNS-BC, CEN, VaCNS Legislative Chair
Charlette Ridout
Ann Munana
Erin Osiol, MSW, LMT
Maria Mercedes Olivieri, LMT
Sarah Rogers
18046****63
18049****83
17172****01

ESTABLISHMENT OF A QUORUM:

Ms. Gerardo welcomed attendees and asked Ms. Vu to take a roll call of Board Members present. With 14 members present, a quorum was established.

Staff and others were identified.

ANNOUNCEMENTS:

Ms. Gerardo noted the announcements on the agenda.

Staff Update

- Sylvia Tamayo-Suijk accepted the Senior Discipline Specialist position (**replacing Darlene Graham**)

Ms. Gerardo noted that the next meeting is in July and new members might be appointed to the Board to replace Ms. Hershkowitz and Ms. Phelps after eight years of service. Ms. Gerardo said that the Board may resume in-person meeting in September and will celebrate at that time.

UPCOMING MEETINGS: The upcoming meetings listed on the agenda:

- The VIRTUAL VNA Board of Directors is scheduled for June 9, 2021 – Ms. Douglas will attend as the NCSBN President of the Board of Directors.
- The Committee of the Joint Boards of Nursing and Medicine VIRTUAL business meeting is scheduled for Wednesday, June 16, 2021 at 9:00 a.m.
- The NCSBN Board of Directors VIRTUAL meeting is scheduled for July 12-14, 2021 – Ms. Douglas will attend as the NCSBN President of the Board of Directors.

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

Ms. Gerado asked staff to provide updates to the Agenda. Ms. Douglas noted that staff has assigned the Possible Summary Suspension consideration at 3:30 pm however there is no cases for consideration today.

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

- Mr. Monson removed **B4** VIRTUAL Possible Summary Suspension Consideration and Formal Hearings for discussion
- Ms. Douglas removed **C6** Executive Director for discussion

Mr. Monson moved to accept the consent agenda as presented. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion was carried unanimously.

Consent Agenda

B1 March 22, 2021 VIRTUAL Formal Hearings
B2 March 23, 2021 VIRTUAL Business Meeting
B3 March 24, 2021 Panel A – VIRTUAL Formal Hearings

C1 Financial Report as of March 31, 2021
C2 Board of Nursing Monthly Tracking Log
C3 HPMP Report as of March 31, 2020
C4 The Committee of the Joint Boards of Nursing and Medicine April 21, 2021 DRAFT Business meeting minutes
C5 The Committee of the Joint Boards of Nursing and Medicine April 21, 2021 DRAFT Informal Conference minutes

Discussion of item removed from the Consent Agenda:

B4 April 29, 2021 VIRTUAL Possible Summary Suspension Consideration and Formal Hearings

Mr. Monson stated that the minutes do not reflect his memory of a decision that was made regarding the formal hearing of Andres Chapparo Bosque, LPN Applicant.

Ms. Douglas suggested the Board defer this item to later and asked Ms. Morris to send the Order to Ms. Mitchell and her for review. All agreed.

C6 – Executive Director Report - Ms. Douglas stated that she has additional information to add to her report:

- The Declaration of 2020 as the year of the nurse has been extended to 2021 in light of the pandemic. May is also nurses month;
- May 13th was the initial meeting related to Federation of State Massage Therapy Board (FSMTB) and their kickoff to consider a massage therapy compact. Ms. Douglas is not sure if it will be similar to nursing compact. Ms. Douglas is hoping the Board will have a voice as we are the only nursing board that regulates massage therapists
- In August Credentia is taking over the nurse aide certification process from PearsonVue. NCSBN, who owns the Intellectual property for the nure aide exam, will work closely with Credentia. This transition will occur during next year. Ms. Wilmoth and Ms. Willinger have been assisting with the transition. Changes to the delivery of both written and skills exam are expected.

Ms. Hershkowitz moved to accept the **C6** Executive Director Report as presented and amended. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

DIALOGUE WITH DHP DIRECTOR:

Dr. Brown reported the following:

- A lot of nursing related bills passed during the 2021 General Assembly (GA)
- COVID numbers are improving, cases decreases, vaccination rate improved. 38% of Virginians are fully vaccinated. Number misleading as that considers entire population not just adults.
- Lessons learned from crisis - an example, enabled telework to a degree that staff did not think was possible. Staff are doing a good job at home. Staff may miss comradery and creativity that occurs in office, but telework will continue a couple days a week. Legislation will be needed in order for staff to work remotely
- Close look at requirements for licensure for various boards, particularly health boards, and ensure the requirements for licensure are the ones we need not to inhibit growth in the practice area.

Dr. Brown noted that Dr. Allison-Bryan is not able to participate today and said that he would be happy to answer any questions the Board has.

Ms. Hershkowitz asked for updates on the requirements by legislation in terms of studies and workgroups etc. (midwives, advanced practice registered nursing). Dr. Brown replied that study on APRN's assigned to DHP has not begun and there are lots of interest regarding the midwifery workgroup, but the charge is narrow.

Dr. Gleason asked if virtual meetings will continue as alternatives for respondents who live at a distance or have transportation issues when state of emergency is lifted. Dr. Brown replied that it would require legislative changes and added that internal discussion among board executives have started in preparation for possible legislation.

Mr. Monson asked if there was broader movement within state government to stay virtual or it is agency dependent. Dr. Brown replied that DHP takes leadership in virtual meetings but it is not clear at this time where the movement will be.

DISPOSITION OF MINUTES: None

REPORTS: **Board of Health Professions May 13, 2021 Meeting:**

Ms. Gerardo asked Ms. Hershkowitz to proceed. Ms. Hershkowitz reported the following:

- COVID lessons learned – Board of Health Professions (BHP) Members suggested hybrid meeting and the concept that some meetings should be in-person and others may be virtual.
- Waivers given to Long Term Care (LTC) facilities to train Temporary Nurse Aides (TNA) under the federal COVID-19 waiver and the EO 57, third iteration, called on Board of Nursing (BON) to develop process for the TNAs to be deemed eligible by the BON to be certified as certified nurse aides (CNAs).
- Germanna Community College (GCC) and Mary Washington Healthcare Center (MWHC) Academic Practice/Partnership Presentation was shared
- Dr. Yetty Shobo, PhD, HWDC Deputy Executive Director, provided presentation which included information regarding pathways for licensed practical nurses (LPNs) and licensed registered nurses (RNs). Two pathways are high school tech education exposure and choice of public or private college.
- Eight or Nine BHP Members are going off by June 30, 2021 due to not being reappointed for their respective Boards.

OTHER MATTERS: **Board Counsel Update**:

Ms. Mitchell had nothing to report.

Informal Conferences (IFCs) for the second half of 2021:
Ms. Gerardo asked Ms. Morris to speak about IFCs for the second half of 2021. Ms. Morris said that Ms. Vu has emailed Board Members the schedule that has no staff assignments and case types. Ms. Morris said that she will work on that and email to the revised schedule soon.

EDUCATION:

Education Update:
Ms. Gerardo asked Ms. Wilmoth to provide Education update. Ms. Wilmoth reported the following:

- Regulations for Nurse Aide Education Programs became effective May 12, 2021 and Ms. Christine Smith is holding informational sessions for programs next week.
- Registered Medication Aide (RMA) Curriculum Committee will have its first meeting virtually, chaired by Ms. Felicia Smith, on June 9, 2021

REGULATIONS:

Ms. Gerardo noted that staff has provided **F1, F2, F3 and F4** electronically and asked Ms. Yeatts to proceed.

F1 Status of Regulatory Actions
Ms. Yeatts reviewed the chart noting that the Regulations for Nurse Aide Education Programs went into effective on May 12, 2021, but the requirement of 140 hours has a delayed effective date of May 12, 2023

F2 Chart of Post - General Assembly Actions/Studies
Ms. Yeatts stated that the table lists what BON is responsible for post legislation. Ms. Yeatts noted that after July1, adoption of changes will be to conform regulations to 2021 legislative changes. Ms. Yeatts added that non-regulatory actions focus on studies that will need to be completed.

F3 Adoption of Final Regulations for Prohibition on Conversion Therapy (18VAC90-19 and 30)
Ms. Yeatts said that prohibition on conversion therapy started with adoption of guidance document and the final amendments for 18VAC90-19 (nursing regulations) and for 18VAC90-30 (nurse practitioner regulations) are presented for Board's action.

Mr. Monson moved to adopt the final regulations for prohibition on conversion therapy (18VAC90-19 and 30) as presented. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

F4 Adoption of Final Regulations for Simulation in Nursing Education Programs (18VAC90-27)

Ms. Yeatts stated that this final action does not become effective until approved by the Department of Planning & Budget, the Secretary, and the Governor, which will likely take several more month.

Ms. Yeatts added that there is a waiver in place for simulation requirements that remains in effect for 90 days after the expiration of EO 51.

Ms. Yeatts said that the Board has options to adopt final regulations as presented or to adopt final regulations as amended by the Board.
Ms. Hershkowitz moved to adopt the final regulation for simulation in nursing education programs (18VAC90-27) as presented. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion carried unanimously.

Dr. McQueen-Gibson left the meeting at 10:00 A.M.

F5 Revision of Guidance Documents (GDs) Cover Sheet

- **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. Yeatts stated that these two GDs are due for revision under periodic review.

Ms. Yeatts said that GD 90-4 was reviewed by the Office of Emergency Management Services (OEMS) and Board Counsel and amendments are recommended for the Board's adoption.

Ms. Douglas stated that initial development of GD 90-63 involved large group of stakeholders and reviewed by Board Counsel. Dr. Hills said that limitations as to what could be incorporated due to nature of GD.

Ms. Douglas noted that if the Board adopts these GDs today, they will have 30 days of public comment.

Dr. Gleason suggested replacing the word "***understand***" in GD 90-63, under Monitoring and documentation, with the word "***demonstrate***"

Ms. Yeatts stated that the nature of GD is to guide, not assess adherence and not enforceable. Ms. Mitchell agreed with Ms. Yeatts.

Mr. Monson moved to adopt the revisions of GD 90-4 and GD 90-63 as presented. The motion was properly seconded by Mr. Hermansen-Parker. A roll call was taken and the motion carried unanimously.

PUBLIC COMMENT:

Ms. Gerardo 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 May 18, 2021 indicating that they wish to offer comment.
Ms. Gerardo asked if anyone has signed up to comment. Ms. Vu reported that Sarah W. Taylor, VaCNS Legislative Chair submitted an email indicating that she wishes to offer comment.

Ms. Gerardo reminded everyone that comment should be limited to 3-5 minutes in order to allow ample time for the Board to conduct its business.

Ms. Sarah W. Taylor, VaCNS Legislative Chair, asked that clinical nurse specialists should be able to apply for licensure with or without prescriptive authority.

Ms. Janet Wall, CEO of the Virginia Nurses Association (VNA)/Virginia Nurses Foundation (VNF), provided the following:

- Fall virtual VNA Conference will be one day on Thursday, September 23, 2021only focusing on "*Fostering Recovery by Creating Moral Community in the Wake of a Pandemic*"
- Nominations & Elections – May 28 deadline for self nominations. Most positions are 2-year terms, renewable for a 2nd 2-year term. The VNA board has 5 meetings per year and most if not all are held virtually
- After four years as VNF President, Dr. Terris Kennedy is handing over the reins of leadership to Dr. Phyllis Whitehead. Dr. Whitehead currently works as a clinical ethicist and palliative medicine clinical nurse specialist with the Carilion Roanoke Memorial Hospital Palliative Care Service. She is also an associate professor at the Virginia Tech Carilion School of Medicine in Roanoke and has been actively engaged with our foundation and association for a number of years
- VNF thrilled to announce that we will be welcoming fellows to our first Nurse Leadership Academy in October. Registration for this year-long and predominantly virtual program, which includes both didactic learning and a leadership project, will open in the next couple weeks
- VNF traditionally welcome 500 nurses and guests to a celebration of nursing each fall, however this year the Gala is being delayed. VNF hopes to schedule it in the spring in conjunction with VNA's 2-day spring conference. There are plans for webinars related to Youth and Adolescence mental health soon
- VNF anticipates holding a convening of nurses for the release of the National Academy of Medicine's 2020-2030 Future of Nursing

Report, which focuses on health equity. Two of VNF nurse leaders will be participating in an upcoming Campaign for Action planning session tied to the report and the convening would follow that planning event. More to come

RECESS: The Board recessed at 10:13 A.M.

RECONVENTION: The Board reconvened at 10:29 A.M.

Discussion of item removed from the Consent Agenda:
B4 April 29, 2021 VIRTUAL Possible Summary Suspension Consideration and Formal Hearings.

Ms. Mitchell stated that she listened to the recording of the April 29, 2021 formal hearing of Andres Chapparo Bosque, LPN Applicant, reviewed the Order issued and the minutes are all correct as presented.

Mr. Monson moved to adopt **B4** as presented. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

PUBLIC HEARINGS: Ms. Gerardo said that there is a public hearing today to receive comments on proposed regulations for prescriptive authority for nurse practitioners – **Waiver of Electronic Prescribing (18VAC90-40-122)**

Ms. Gerardo added that as indicated in the meeting notice on Regulatory Townhall and in the agenda package, comments will be received from those persons who submitted an email to huong.vu@dhp.virginia.gov no later than 8 am on May 18, 2021 indicating that they wish to offer comment.

Ms. Gerardo asked if anyone has signed up to comment. Ms. Vu said no emails with request for comment were received as of 8 am today.

Ms. Gerardo reminded everyone that electronic comment can be posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov or sent by email until July 9, 2021 and comments should be directed to Elaine Yeatts, DHP Policy Analyst.

Ms. Gerardo added that all comments will be considered before the Board of Nursing and the Board of Medicine jointly adopts final regulations.

CONSENT ORDER CONSIDERATION:

G1 – Xu Zhang, LMT **0019-015983**

ACTION: Ms. Hershkowitz moved to accept the consent order for voluntary surrender for revocation of **Xu Zhang**'s license to practice massage therapy in the Commonwealth of Virginia. The motion was properly seconded by Ms. Smith. A roll call was taken and the motion was carried unanimously.

RECESS: The Board recessed at 10:36 A.M.

RECONVENTION: The Board reconvened at 11:00 A.M.

CHANGES TO CERTIFIED NURSE AIDE (CNA) AND NURSING SRP WORKSHEET PRESENTATION

Ms. Gerardo asked Neal Kauder and Kim Small of VisualResearch to proceed.

Dr. McQueen-Gibson re-joined the meeting at 11:10 A.M.

Mr. Kauder said that the worksheets have been revised as requested by the Board at its December 2, 2020 meeting and are presented for Board's consideration. Mr. Kauder proceeded with the worksheets' presentation:

Slide 3 – CNA Proposed Worksheet

Mr. Monson noted that the Board moved to remove **item "f"** (***Failure to participate with DHP***) from the Offense and Respondent Score at its last meeting and asked if the 20 points have been redistributed. Mr. Kauder replied that points were not a factor that have been found to have predictive power so the 20 points were not distributed.

Slide 4 – CNA Proposed Worksheet with Change

Ms. Dewey asked where fraud is included in the case type score. Mr. Kauder replied fraud is part of *Abandonment/Standard of Care* (**item f**). Ms. Dewey suggested adding the term fraud for **item "f"**. All agreed.

Ms. Dewey asked if respondents having three or more employers is not a predictive indicator in the Offense and Respondent Score. Ms. Small replied it is not an influential factor.

Dr. Hills asked that Abuse/Inappropriate Relationship (**item "a"** in Case Type Score) are combined because of point value being congruent. Mr. Kauder replied yes.

Mr. Monson moved to adopt the CNA Proposed Worksheet with Change with addition of fraud for **item "f"** in the Case Type Score. The motion was

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

Slide 5 – Current Inability to Safely Practice Worksheet for Nurses & LMTs

Mr. Kauder noted that the year of adoption was 2012, not 2002.

Slide 6 – Proposed Drug Related Worksheet for Nurses

Mr. Kauder noted that this worksheet is for Nurses only and the worksheet for LMTs will be created separately. Mr. Kauder added that the title of the proposed worksheet has been changed to Drug Related from Inability to Safety Practice with the 70% predictability.

Ms. Hershkowitz commented that the structure of the worksheet has to do with more than drug related cases and impaired practice is more general than drug related. Ms. Hershkowitz suggested the title of the worksheet to be Inability to Safely Practice. Ms. Small stated that Inability to Safely Practice is listed in **item "a"** in Case Type Score but can change the title as the Board wishes to do so. All agreed with Ms. Hershkowitz' suggestion.

Dr. Gleason commented that (***TDO or voluntary***) in **item "a"** in Offense and Respondent Score appears that the Board punishes licensees for voluntary seeking help and suggested deleting (***TDO or voluntary***). Ms. Mitchell agreed.

Mr. Monson asked if there is timeline on mental health admission that does not have practice issues. Mr. Kauder replied no. Ms. Douglas added that old admission may demonstrate a pattern.

Ms. Shah inquired where Past difficulties (**item "e"** in Offense and Respondent Score) does fall. Ms. Small replied that someone with previous issue. Ms. Shah asked if vulnerability is a criteria. Ms. Small replied that all patients are vulnerable so not a factor. Ms. Shah asked if that was why number of employers were removed from the worksheet. Ms. Small said that the factor became less significant overtime so it was removed.

Ms. Douglas stated that each case has to stand on its own, but **items "a"** and **"d"** in Offense and Respondent Score are included in the current case which in fact consideration old information. Mr. Kauder said that prior record is important across all worksheets. Ms. Mitchell commented that even though it causes concern but it is relevant for the board's consideration. Mr. Kauder added that the best predictor or sanction is the history.

Mr. Monson suggested adding "***in another state***" for **item "a"** and "***for Virginia only***" for **item "d"** in Offense and Respondent Score.

Ms. Gerardo noted that the Board has used this worksheet for the last nine years with and asked if the board has discomfort about using it. Ms. Douglas stated that staff are not aware of.

Ms. Hershkowitz suggested advising licensees to review the worksheets, that the Board uses for decision making and tracking, prior to the hearing of their case the system.

Mr. Kauder stated that the Board has to be comfortable with utilizing the worksheet, otherwise the Board will start seeing departure rates increase. Mr. Kauder added that the worksheet has been instituted since July 2005 and overall, there is a 81% agreement rate with the worksheet.

Mr. Monson asked the prediction rate for the current worksheet is. Mr. Kauder replied that between 70 – 75%, but not over 80%.

Ms. Hershkowitz moved to adopt the Proposed Drug Related Worksheet for Nurses as follows:

- Change the title of the worksheet to "**Inability to Safely Practice**"
- Delete (***TDO or voluntary***) for **item "a"** in Offense and Respondent Score
- Add "***for Virginia only***" for **item "d"** in Offense and Respondent Score

The motion was properly seconded by Mr. Monson. A roll call was taken with 12 votes in favor of the motion. Ms. Smith abstained the motion.

Slide 7 – Current standard of Care Worksheet for Nurses & LMT

Mr. Kauder noted that the year of adoption was 2012, not 2002.

Slide 8 – Proposed Patient Care Worksheet for Nurses

Mr. Kauder noted that the proposed worksheet correctly predicts 75% of cases and there are two new/different factors added to the proposed worksheet.

Mr. Monson asked how "**Past difficulties (substances, mental/physical)**" (item "c" in Offense and Respondent Score) is defined. Ms. Small replied that onsite testing were conducted by employers and respondents failed.

Ms. Shah asked if "**Abuse**" is included either in **item "b"** or in **item "c"** in Case Type Score. Ms. Small replied Abuse falls under Neglect (**item "c"**).

Mr. Monson suggested adding "**Abuse and Abandonment**" in **item "c"** in Case Type Score.

Ms. Hershkowitz suggested modifying **item "g"** in Offense and Respondent Score to "**Any prior Virginia Board violations**"

Ms. Hershkowitz inquired why "Respondent failed to initiate corrective action" is not included on this worksheet, but on the other worksheets. Mr. Kauder replied that it would be prescriptive addition rather than descriptive addition. Mr. Kauder suggested to have this worksheet revised with Board's suggestions, accuracy rate recalculated and bring it back for consideration. All agreed.

Slide 9 – Current Fraud Worksheet for Nurse & LMTs

Mr. Kauder noted that the year of adoption was 2012, not 2002.

Slide 10 – Proposed Fraud Worksheet for Nurses

Ms. Small noted that **item "f"** in Offense and Respondent Score to will be modified to say "**Any prior Virginia Board violations**"

Mr. Monson moved to adopt the Proposed Fraud Worksheet for Nurses as presented and further amended. The motion was properly seconded by Ms. Shah. A roll call was taken and the motion carried unanimously.

Ms. Gerardo thanked Mr. Kauder and Ms. Small for their work on the worksheet.

RECESS: The Board recessed at 12: 33 P.M.

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

PRESENTATION BY BONNIE PRICE, DNP, RN, SANE-A, SANE-P, AFN-BC, ADMINISTRATIVE DIRECTOR, BON SECOURS RICHMOND HEALTH SYSTEM, COMMUNITY HEALTH ADVOCACY

- Overview of the Human Trafficking Taskforce
- Massage Therapy Sexual Assault/Boundary Violation Cases – Understanding the Impact on Victims

Ms. Gerardo welcomed Dr. Price and invited her to proceed with the presentation.

Dr. Price thanked the Board for the opportunity to present the information. Dr. Price provided her background and presented the following information from the presentation:

- Understanding the Impact on Victims
- Neurobiology of the brain and sexual assault
- Youtube video Trauma and the Brain video (https://youtube.com/watch?v=4-tcKYx24aA)
- Examples of Tonic Immobility and Fawning Case Studies
- Human Trafficking definition
- Vulnerable Populations
- Warning Signs
- Indicators of Illicit Massage Parlors
- Possible Indicators of Illicit Massage Parlors
- Richmond Regional Human Trafficking Collaborative: Town of Ashland, Chesterfield County, Hanover County, Henrico County, Goochland County, Richmond, Virginia State Crime Commission, Attorney General, FBI, The U.S. Attorney's Office Eastern District of Virginia and Homeland Security

After the presentation, Dr. Price noted that following:

- Questions can cause triggers which can make victims feel like the incident just happened even if it happened years ago.
- It is hard to determine what questions to ask the victims. In the criminal case, a judge is the gatekeeper for the questions. Suggested to the Board asking the victims what they can remember and having one person asking the questions.
- There is no mandatory reporting of human trafficking in place. Data comes from those who call for help. Most of the time the traffickers are working up the east coast
- At Bon Secours, cases are often involved sexual exploitative victims between the age of 11 to mid 20s. New York is the common state that the LMTs obtained their initial licenses.
- There is a case manager for juvenile trafficking. Juvenile trafficking is difficult for law enforcement to get leads on

Ms. Gerardo thanks Dr. Price for the information.

RECESS: The Board recessed at 2: 21 P.M.

RECONVENTION: The Board reconvened at 2:30 P.M.

AGENCY SUBORDINATE RECOMMENDATION CONSIDERATION:

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

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

#1 - Sandra Fontana, LPN **0002-046793**

ACTION: Ms. Smith moved to accept the recommended decision of the agency subordinate to suspend the right of **Sandra Fontana** to renew her license to practice practical nursing in the Commonwealth of Virginia for a period of not less than two years from 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.

#2 – Anne Coppedge Gill, RN **0001-188717**

ACTION: Ms. Smith moved to accept the recommended decision of the agency subordinate to indefinitely suspend the license of **Anne Coppedge Gill** to practice professional nursing in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Gill'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 Mr. Monson. A roll call was taken and the motion was carried unanimously.

#3 – Melinda Faye Brown, RN **0001-243295**

ACTION: Ms. Smith moved to accept the recommended decision of the agency subordinate to indefinitely suspend the license of **Melinda Faye Brown** to practice professional nursing in the Commonwealth of Virginia for a period of not less than two years 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.

#4 – Adewumi Solomon Adesina, RN **0001-249841**

ACTION: Ms. Smith moved to accept the recommended decision of the agency subordinate to reprimand **Adewumi Solomon Adesina** and within 60 days from the date of entry of the Order, Ms. Adesina shall provide written proof satisfactory to the Board of successful completion of the following NCSBN courses: *Ethics of Nursing Practice* and *Professional Accountability & Legal Liability for Nurses* . The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

#5 – Yasmine Aba Acquah, LPN **0002-083737**

ACTION: Ms. Smith moved to accept the recommended decision of the agency subordinate to require **Yasmine Aba Acquah,** within 90 days from the date

of entry of the Order, providing written proof satisfactory to the Board of successfully completion of the following NCSBN courses: *Documentation: A Critical Aspect of Client Care* and *Sharpening Critical Thinking Skills*. The motion was properly seconded by Mr. Monson. A roll call was taken and the motion was carried unanimously.

MEETING DEBRIEF: **Discussion regarding the business meeting process:**

The following were well received by Board Members:

- Great presentation by Dr. Price
- Discussion about SRPs and review were helpful. Training will be well needed when the new worksheets are available
- Communication behind the scenes is effective for public facing platform

The following needs improvement per Board Members:

- None was noted

ADJOURNMENT: The Board adjourned at 2:47 P.M.

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Marie Gerardo, MS, RN, ANP-BC
President

VIRGINIA BOARD OF NURSING
VIRTUAL **FORMAL HEARINGS**
May 19, 2021 – PANEL A

TIME AND PLACE: The virtual Webex meeting of the Virginia Board of Nursing was called to order at 9:01 A.M. on May 19, 2021.

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.

BOARD MEMBERS PARTICIPATING VIRTUALLY:
Marie Gerardo, MS, RN, ANP-BC, President
Margaret J. Friedenberg, Citizen Member
A Tucker Gleason, PhD, Citizen Member
James Hermansen-Parker, MSN, RN, PCCN-K
Meenakshi Shah, BA, RN
Shawnte Peterson, LMT

STAFF PARTICIPATING VIRTUALLY:
Jay Douglas, RN, MSM, CSAC, FRE, Executive Director
Patricia Dewey, RN, BSN, Discipline Case Manager
Sylvia Tamayo-Suijk, Senior Discipline Specialist
Sally Ragsdale, Discipline Specialist

OTHERS PARTICIPATING VIRTUALLY:
James Rutkowski, Assistant Attorney General, Board Counsel
David Robinson, Adjudication Specialist, Administrative Proceedings Division (APD)
Tammie Jones, Adjudication Consultant, APD
Julia Bennett, Deputy Executive Director, APD
Rebecca Ribley, Adjudication Specialist, APD
Ann Tiller, Compliance Manager, Board of Nursing
Melvina Baylor, Compliance Specialist
Cathy Hanchey, Senior Licensing/Discipline Specialist
Ka Yu-Cheng, Senior Investigator, DHP Enforcement
Etta Bruton

ESTABLISHMENT OF A PANEL: With six members of the Board present, a panel was established.

FORMAL HEARING: **Chua Hua Wang, LMT** **0019-014001**

Ms. Wang did not participate.

David Robinson, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Mr. Rutkowski was legal counsel for the Board. Racheal Steck, court reporter with Veteran Reporters, recorded the proceeding.

Tonya James, Board of Nursing Compliance Case Manager, participated and testified.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:23 A.M., for the purpose of deliberation to reach a decision in the matter of Chua Hua Wang. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Dewey, Ms. Tamayo-Suijk, Ms. Ragsdale, and Mr. Rutkowski, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 9:45 A.M.

Dr. Gleason 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. Friedenberg. A roll call was taken and the motion carried unanimously.

ACTION: Ms. Shah moved that the Board of Nursing indefinitely suspend the massage therapy license of Chua Hua Wang for a period of not less than one year. The basis for this decision will be set forth in a final Board Order which will be sent to Ms. Wang at her address of record. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 9:47 A.M.

RECONVENTION: The Board reconvened in open session at 10:01 A.M.

FORMAL HEARING: **Yuna Deby Jungson, LMT** **0019-016007**

Ms. Jungson participated.

Tammie Jones, Adjudication Consultant for the Department of Health Professions, represented the Commonwealth. Mr. Rutkowski was legal counsel for the Board. Racheal Steck, court reporter with Veteran Reporters, recorded the proceeding.

Cheryl Hodgson, Senior Investigator, Department of Health Professions, participated and testified.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:49 A.M., for the purpose of deliberation to reach a decision in the matter of Yuna Deby Jungson. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Dewey, Ms. Tamayo-Suijk, Ms. Ragsdale, and Mr. Rutkowski, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 11:17 A.M.

Dr. Gleason 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. Friedenberg. A roll call was taken and the motion carried unanimously.

ACTION: Ms. Shah moved that the Board of Nursing revoke Yuna Deby Jungson's right to renew her massage therapy license. The basis for this decision will be set forth in a final Board Order which will be sent to Ms. Jungson at her address of record. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 11:19 A.M.

RECONVENTION: The Board reconvened in open session at 11:27 A.M.

FORMAL HEARING: **Bao Quoc Nguyen, LMT** **0019-008638**

Bao Quoc Nguyen did not participate.

Tammie Jones, Adjudication Consultant for the Department of Health Professions, represented the Commonwealth. Mr. Rutkowski was legal counsel for the Board. Racheal Steck, court reporter with Veteran Reporters, recorded the proceeding.

CLOSED MEETING: Dr. Gleason moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:35 A.M., for the purpose of deliberation to reach a decision in the matter of Bao Quoc Nguyen. Additionally, Dr. Gleason moved that Ms. Douglas, Ms. Dewey, Ms. Tamayo-Suijk, Ms. Ragsdale, and Mr. Rutkowski, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 11:54 A.M.

Ms. Shah 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. Friedenberg. A roll call was taken and the motion carried unanimously.

ACTION: Dr. Gleason moved that the Board of Nursing issue an Order of reprimand and indefinitely suspend Bao Quoc Nguyen's right to renew their massage therapy license. The basis for this decision will be set forth in a final Board Order which will be sent to Bao Quoc Nguyen at their address of record. The motion was properly seconded by Ms. Friedenberg. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 11:56 A.M.

RECONVENTION: The Board reconvened in open session at 1:01 P.M.

FORMAL HEARING: **Lulu Zhang, LMT** **0019-008707**

Ms. Zhang did not participate.

Tammie Jones, Adjudication Consultant for the Department of Health Professions, represented the Commonwealth. Mr. Rutkowski was legal counsel for the Board. Racheal Steck, court reporter with Veteran Reporters, recorded the proceeding.

CLOSED MEETING: Mr. Hermansen-Parker moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:08 P.M., for the purpose of deliberation to reach a decision in the matter of Lulu Zhang. Additionally, Mr. Hermansen-Parker moved that Ms. Douglas, Ms. Dewey, Ms. Tamayo-Suijk, Ms. Ragsdale, and Mr. Rutkowski, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Shah. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 1:18 P.M.

Mr. Hermansen-Parker 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. Shah. A roll call was taken and the motion carried unanimously.

ACTION: Ms. Peterson moved that the Board of Nursing issue an Order of reprimand and indefinitely suspend Lulu Zhang's right to renew her massage therapy license. The basis for this decision will be set forth in a final Board Order which will be sent to Ms. Zhang at her address of record. The motion was properly seconded by Ms. Shah. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 1:19 P.M.

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Jay Douglas, RN, MSM, CSAC, FRE
Executive Director

VIRGINIA BOARD OF NURSING
VIRTUAL **FORMAL HEARINGS**
May 19, 2021
Panel - B

TIME AND PLACE: The virtual Webex meeting of the Virginia Board of Nursing was called to order at 9:01 A.M. on May 19, 2021.

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.

BOARD MEMBERS PARTICIPATING VIRTUALLY:
Mark Monson, Citizen Member; First Vice-President
Yvette Dorsey, DNP, RN
Louise Hershkowitz, CRNA, MSHA
Brandon Jones, MSN, RN, CEN, NEA-BC
Dixie McElfresh, LPN
Cynthia Swineford, RN, MSN, CNE

STAFF PARTICIPATING VIRTUALLY:
Claire Morris, RN, LNHA; Deputy Executive Director
Robin Hills, RN, DNP, WHNP; Deputy Executive Director for Advanced Practice
Francesca Iyengar, MSN, RN; Discipline Case Manager
Huong Vu, Executive Assistant

OTHERS PARTICIPATING VIRTUALLY:
Charis Mitchell, Assistant Attorney General, Board Counsel
Cheryl Reene Lane, Court Reporter, Veteran Reporters
Ann Tiller, Compliance Manager
Joyce S. Johnson, Senior Investigator, DHP Enforcement
Katie Land, Senior Investigator, DHP Enforcement
Gayle Miller, Senior Investigator, DHP Enforcement
Marcella Luna, Investigator Supervisor, DHP Enforcement
Cynthia Gaines, Adjudicative Specialist, Administrative Proceedings Division (APD)
Grace Stewart, Adjudicative Specialist, APD
Julia Bennett, Deputy Executive Director, APD
Rebecca Ribley, Adjudication Specialist, APD

ESTABLISHMENT OF A PANEL: With six members of the Board present, a panel was established.

FORMAL HEARINGS: **Branden Anthony Jackson, RMA Reinstatement Applicant 0031-007751**

Mr. Jackson participated.

Cynthia Gaines, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter, Veteran Reporters, recorded the proceeding.

Joyce S. Johnson, Senior Investigator, Department of Health Professions, participated and testified.

CLOSED MEETING: Mr. Jones moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 9:43 A.M., for the purpose of deliberation to reach a decision in the matter of **Branden Anthony Jackson**. Additionally, Mr. Jones moved that Ms. Morris, Dr. Hills, Ms. Iyengar, Ms. Vu and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Swineford. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 10:08 A.M.

Mr. Jones 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. Hershkowitz. A roll call was taken and the motion carried unanimously.

ACTION: Ms. Hershkowitz moved that the Board of Nursing to reprimand **Branden Anthony Jackson** and approve his application for reinstatement of his registration to practice as a medication aide in the Commonwealth of Virginia. The basis for this decision will be set forth in a final Board Order which will be sent to Mr. Jackson at her address of record. The motion was properly seconded by Ms. Swineford. A roll called was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 10:11 A.M.

RECONVENTION: The Board reconvened in open session at 10:19 A.M.

FORMAL HEARINGS: **Tiffany Noel Curfman Allinson, LPN Reinstatement Applicant 0002-082286**

Ms. Allinson participated.

Grace Stewart, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter, Veteran Reporters, recorded the proceeding.

Katie Land, Senior Investigator, Department of Health Professions, participated and testified.

CLOSED MEETING: Mr. Jones moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:23 A.M., for the purpose of deliberation to reach a decision in the matter of **Tiffany Noel Curfman Allinson**. Additionally, Mr. Jones moved that Ms. Morris, Dr. Hills, Ms. Iyengar, Ms. Vu and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Swineford. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 12:05 P.M.

Mr. Jones 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. Swineford. A roll call was taken and the motion carried unanimously.

ACTION: Ms. McElfresh moved that the Board of Nursing approve the application of **Tiffany Noel Curfman Allinson** for reinstatement of her license to practice practical nursing in the Commonwealth of Virginia, suspend her license and stay the suspension of the license contingent upon Ms. Allinson's entry and compliance with the Health Practitioners' Monitoring Program (HPMP). In addition, prior to active practice, Ms. Allinson must submit completion of Board approved LPN refresher course. The basis for this decision will be set forth in a final Board Order which will be sent to

Ms. Allinson at her address of record. The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 12:08 P.M.

RECONVENTION: The Board reconvened in open session at 12:41 P.M.

FORMAL HEARINGS: **Charles Edward Jacobs, RN Reinstatement Applicant**
0001-257084

Mr. Jacobs participated.

Cynthia Gaines, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter, Veteran Reporters, recorded the proceeding.

Gayle Miller, Senior Investigator, Department of Health Professions, participated and testified.

CLOSED MEETING: Mr. Jones moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:34 P.M., for the purpose of deliberation to reach a decision in the matter of **Charles Edward Jacobs**. Additionally, Mr. Jones moved that Ms. Morris, Dr. Hills, Ms. Iyengar, Ms. Vu and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Swineford. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:05 P.M.

Mr. Jones 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. Swineford. A roll call was taken and the motion carried unanimously.

ACTION: Ms. Hershkowitz moved that the Board of Nursing approve the application of **Charles Edward Jacobs** for reinstatement of his license to practice professional nursing in the Commonwealth of Virginia and suspend his license with suspension stayed contingent upon Mr. Jacobs' continued compliance with the Health Practitioners' Monitoring Program (HPMP). The basis for this decision will be set forth in a final Board Order which will be sent to Mr. Jackson at her address of record. The motion was properly seconded by Mr. Jones. A roll called was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 2:08 P.M.

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Claire Morris, RN, LNHA
Deputy Executive Director

VIRGINIA BOARD OF NURSING
VIRTUAL **FORMAL HEARINGS**
May 20, 2021

TIME AND PLACE: The virtual Webex meeting of the Virginia Board of Nursing was called to order at 9:22 A.M. on May 20, 2021.

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.

BOARD MEMBERS PARTICIPATING VIRTUALLY:
Mark Monson, Citizen Member; First Vice-President
Yvette Dorsey, DNP, RN
James Hermansen-Parker, MSN, RN, PCCN-K
Louise Hershkowitz, CRNA, MSHA
Dixie McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Meenakshi Shah, BA, RN
Cynthia Swineford, RN, MSN, CNE

STAFF PARTICIPATING VIRTUALLY:
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advance Practice
Claire Morris, RN, LNHA, Deputy Executive Director
Patricia Dewey, RN, BSN; Discipline Case Manager
Sylvia Tamayo-Suijk, Discipline Team Coordinator
Sally Ragsdale, Discipline Specialist
Huong Vu, Executive Assistant (left at 12:00)

OTHERS PARTICIPATING VIRTUALLY:
Charis Mitchell, Assistant Attorney General, Board Counsel
David Kazzie, Adjudication Consultant, Administrative Proceedings Division (APD)
Rebecca Ribley, Adjudication Specialist, APD
Julia Bennett, Deputy Executive Director, APD
Gayle Miller, Senior Investigator, DHP Enforcement
Matthew Halphen, Senior Investigator, DHP Enforcement
Todd Troutner, Senior Investigator, DHP Enforcement
Hannah Glick, HPMP Case Manager
M. Holder, Investigator, DHP Enforcement
Amber Gray, Senior Investigator, DHP Enforcement
Etta Bruton
Erin Brackenrich

ESTABLISHMENT OF A PANEL: With eight members of the Board present, a panel was established.

FORMAL HEARING: **Patricia Angelia Gallashaw Davis, CNA Reinstatement Applicant 1401-029392**

Due to the technical issues of connectivity with Patricia Angelia Gallashaw Davis, the Chair granted the continuance of the hearing to a later date.

RECESS: The Board recessed at 9:35 A.M.

RECONVENTION: The Board reconvened in open session at 10:01 A.M.

FORMAL HEARING: **Artie Lee Dillard, Jr., RN Reinstatement Applicant 0001-110974**

Mr. Dillard participated.

David Kazzie, Adjudication Consultant for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter with Veteran Reporters, recorded the proceeding.

Gayle Miller, Senior Investigator, DHP Enforcement and Hannah Glick, Case Manager for the Health Practitioners' Monitoring Program, participated and testified.

RECESS: The Board recessed at 10:17 A.M.

RECONVENTION: The Board reconvened in open session at 10:25 A.M.

CLOSED MEETING: Ms. Shah moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:37 A.M., for the purpose of deliberation to reach a decision in the matter of Artie Lee Dillard. Additionally, Ms. Shah moved that Dr. Hills, Ms. Morris, Ms. Dewey, Ms. Tamayo-Suijk, Ms. Ragsdale, and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Mr. Hermansen-Parker. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 12:49 P.M.

Ms. Shah 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 Mr. Hermansen-Parker. A roll call was taken and the motion carried unanimously.

ACTION: Ms. McElfresh moved that the Board of Nursing deny the reinstatement application of Artie Lee Dillard, Jr., to practice professional nursing in the Commonwealth of Virginia. The basis for this decision will be set forth in a final Board Order which will be sent to Mr. Dillard at his address of record. The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 12:50 P.M.

Dr. Dorey, Ms. Swineford and Mr. Hermansen-Parker left the meeting.

RECONVENTION: The Board reconvened in open session at 1:35 P.M.

FORMAL HEARING: **Mariama D. Kanu, CNA, RMA Applicant 1401-190518**

Ms. Kanu participated, accompanied by her attorney, Abu Kalokoh.

Rebecca Ribley, Adjudication Specialist for the Department of Health Professions, represented the Commonwealth. Ms. Mitchell was legal counsel for the Board. Cheryl Renee Lane, court reporter with Veteran Reporters, recorded the proceeding.

Todd Troutner, Senior Investigator, participated and testified. Ibha Ehizokhale, RN at Manor Care, and Belinda Underwood-Kelly, participated and testified.

RECESS: The Board recessed at 3:09 P.M.

RECONVENTION: The Board reconvened in open session at 3:16 P.M.

CLOSED MEETING: Ms. Shah moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 3:40 P.M., for the purpose of deliberation to reach a decision in the matter of Mariama D. Kanu. Additionally, Additionally, Ms. Shah moved that Dr. Hills, Ms. Dewey, Ms. Tamayo-Suijk, Ms. Ragsdale, and Ms. Mitchell, Board counsel, attend the closed meeting because their presence in the closed meeting is deemed

necessary and their presence will aid the Board in its deliberations. The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 4:57 P.M.

Ms. McElfresh 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. Shah. A roll call was taken and the motion carried unanimously.

ACTION: Dr. McQueen-Gibson moved that the Board of Nursing issue an Order to reprimand Mariama D. Kanu and place her certification as a nurse aide on probation with terms for a period of not less than one year of active CNA practice. The basis for this decision will be set forth in a final Board Order which will be sent to Ms. Kanu at her address of record. The motion was properly seconded by Ms. Shah. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Dr. McQueen-Gibson moved that the Board of Nursing deny the application of Mariama D. Kanu to practice as a registered medication aide in the Commonwealth of Virginia. The basis for this decision will be set forth in a final Board Order which will be sent to Ms. Kanu at her address of record. The motion was properly seconded by Ms. Shah. A roll call was taken and the motion carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 5:00 P.M.

Robin L. Hills

Robin L. Hills, DNP, RN, WHNP
Deputy Executive Director

VIRGINIA BOARD OF NURSING
POSSIBLE SUMMARY SUSPENSION TELEPHONE CONFERENCE CALL
June 22, 2021

A possible summary suspension telephone conference call of the Virginia Board of Nursing was held June 22, 2021 at 4:30 P.M.

The Board of Nursing members participating in the call were:

Marie Gerardo, MS, RN, ANP-BC; **Chair**
Yvette L. Dorsey, DNP, RN
Margaret Friedenberg, Citizen Member
A Tucker Gleason, PhD, Citizen Member
Louise Hershkowitz, CRNA, MSHA
Brandon Jones, MSN, RN, CEN, NEA-BC
Dixie L. McElfresh, LPN
Mark Monson, Citizen Member
Felisa Smith, RN, MSA, MSN/Ed, CNE
Cynthia Swineford, RN, MSN, CNE

Others participating in the meeting were:

Charis Mitchell, Assistant Attorney General, Board Counsel
Erin Weaver, Assistant Attorney General
Rebecca Ribley, Adjudication Specialist, Administrative Proceedings Division
Jay P. Douglas, RN, MSM, CSAC, FRE; Executive Director
Claire Morris, RN, LNHA; Deputy Executive Director
Robin Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Patricia L. Dewey, RN, BSN; Discipline Case Manager
Ann Tiller; Compliance Manager
Huong Vu, Executive Assistant

The meeting was called to order by Ms. Gerardo. With 10 members of the Board of Nursing participating, a quorum was established. A good faith effort to convene a meeting at the Board of Nursing offices within the week failed.

Mr. Brandon Jones, RN Board Member, stated that he was employed by Carillion and has no prior knowledge of this case and believes he can be fair and impartial in the matter.

Ms. Mitchell, Board Counsel, asked if any Board Members objected to Mr. Jones participation. There was no objections.

Erin Weaver, Assistant Attorney General, presented evidence that the continued practice of nursing by **Jennifer McCarron Toler, RN (0001- 264926)** may present a substantial danger to the health and safety of the public.

Mr. Monson moved to summarily suspend the registered nurse license of **Jennifer McCarron Toler** pending a formal administrative hearing and to offer a consent order for revocation of her license in lieu of a formal hearing. The motion was seconded and carried unanimously.

The meeting was adjourned at 4:50 P.M.

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Robin Hills, DNP, RN, WHNP
Deputy Executive Director for Advanced Practice

VIRGINIA BOARD OF NURSING
POSSIBLE SUMMARY SUSPENSION TELEPHONE CONFERENCE CALL
June 29, 2021

A possible summary suspension telephone conference call of the Virginia Board of Nursing was held June 29, 2021 at 4:30 P.M.

The Board of Nursing members participating in the call were:

Mark Monson, Citizen Member, First Vice-President; **Chair**
Yvette Dorsey, DNP, RN
Margaret Friedenberg, Citizen Member
Marie Gerardo, MS, RN, ANP-BC
A Tucker Gleason, PhD, Citizen Member
James Hermansen-Parker, MSN, RN, PCCN-K
Louise Hershkowitz, CRNA, MSHA
Brandon Jones, MSN, RN, CEN, NEA-BC
Dixie L. McElfresh, LPN
Meenakshi Shah, BA, RN
Felisa Smith, RN, MSA, MSN/Ed, CNE

Others participating in the meeting were:

Charis Mitchell, Assistant Attorney General, Board Counsel
James Schliessmann, Assistant Attorney General
Erin Weaver, Assistant Attorney General
Wayne Halbleib, Senior Assistant Attorney General/Section Chief
Tammie Jones, Adjudication Consultant, Administrative Proceedings Division
Amanda Padula-Wilson, Adjudication Specialist, Administrative Proceedings Division
Julia Bennett, Deputy Executive Director, Administrative Proceedings Division
Robin Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Claire Morris, RN, LNHA; Deputy Executive Director
Christina Bargdill, BSN, MHS; Deputy Executive Director
Patricia L. Dewey, RN, BSN; Discipline Case Manager
Huong Vu, Executive Assistant

The meeting was called to order by Mr. Monson. With 11 members of the Board of Nursing participating, a quorum was established. A good faith effort to convene a meeting at the Board of Nursing offices within the week failed.

James Schliessman, Assistant Attorney General, presented evidence that the continue practice of practical nursing by **Jessica Lynn McLaughlin, LPN (0002-096541)** may present a substantial danger to the health and safety of the public

Ms. Shah moved to summarily suspend the practical nursing license of **Jessica Lynn McLaughlin** pending a formal administrative hearing and to offer a consent order for revocation of her license in lieu of a formal hearing. The motion was seconded and carried with eight (8) votes in favor of the motion. Ms. Gerardo, Mr. Hermansen-Parker and Mr. Jones opposed the motion.

Mr. Schliessman and Ms. Padula-Wilson left the meeting at 4:50 P.M.

Erin Weaver, Assistant Attorney General, presented evidence that the continued practice of massage therapy by **Talbott Smith, LMT (0019-016487)** may present a substantial danger to the health and safety of the public.

Dr. Gleason moved to summarily suspend the massage therapy license of **Talbott Smith** pending a formal administrative hearing. The motion was seconded and carried unanimously.

Ms. Weaver left the meeting at 5:00 P.M.

Wayne Halblieb, Senior Assistant Attorney General/Section Chief, presented evidence that the continued practice as a certified nurse aide and as a registered medication aide by **Dena Ann Spruill, CNA, RMA (1401-066711 and 0031-011198)** may present a substantial danger to the health and safety of the public.

Ms. Gerardo moved to summarily suspend the nurse aide certification and medication aide registration of **Dena Ann Spruill** pending a formal administrative hearing and to offer a consent order for revocation of her nurse aide certification with a Finding of Abuse and medication aide registration in lieu of a formal hearing. The motion was seconded and carried unanimously.

The meeting was adjourned at 5:23 P.M.

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Robin Hills, DNP, RN, WHNP
Deputy Executive Director for Advanced Practice

VIRGINIA BOARD OF NURSING
POSSIBLE SUMMARY SUSPENSION TELEPHONE CONFERENCE CALL
July 12, 2021

A possible summary suspension telephone conference call of the Virginia Board of Nursing was held July 12, 2021 at 4:30 P.M.

The Board of Nursing members participating in the call were:

Mark Monson, Citizen Member, First Vice-President; **Chair**
Margaret Friedenberg, Citizen Member
A Tucker Gleason, PhD, Citizen Member
James Hermansen-Parker, MSN, RN, PCCN-K
Louise Hershkowitz, CRNA, MSHA
Brandon Jones, MSN, RN, CEN, NEA-BC
Dixie L. McElfresh, LPN
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC
Jennifer Phelps, BS, LPN, QMHP-A, CSAC
Cynthia Swineford, RN, MSN, CNE

Others participating in the meeting were:

Charis Mitchell, Assistant Attorney General, Board Counsel
Sean Murphy, Assistant Attorney General
Wayne Halbleib, Senior Assistant Attorney General/Section Chief
Claire Foley, Adjudication Specialist, Administrative Proceedings Division
Rebecca Ribley, Adjudication Specialist, Administrative Proceedings Division
Robin Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice
Claire Morris, RN, LNHA; Deputy Executive Director
Christina Bargdill, BSN, MHS; Deputy Executive Director
Patricia L. Dewey, RN, BSN; Discipline Case Manager
Ann Tiller, Compliance Manager

The meeting was called to order by Mr. Monson. With 10 members of the Board of Nursing participating, a quorum was established. A good faith effort to convene a meeting at the Board of Nursing offices within the week failed.

Sean Murphy, Assistant Attorney General, presented evidence that the continue practice of practical nursing by **Courtney Lynn Johnson, LPN (0002-089351)** may present a substantial danger to the health and safety of the public

Ms. Phelps moved to summarily suspend the practical nursing license of **Courtney Lynn Johnson** pending a formal administrative hearing and to offer a consent order for indefinite suspension of her license for a period of not less than one year in lieu of a formal hearing. The motion was seconded and carried unanimously.

Sean Murphy, Assistant Attorney General, presented evidence that the continued practice of massage therapy by **Vera Komarova, RMA (0031-001218)** may present a substantial danger to the health and safety of the public.

Dr. Gleason moved to summarily suspend the registration to practice as a medication aide of **Vera Komarova** pending a formal administrative hearing and to offer a consent order for revocation of her registration in lieu of a formal hearing. The motion was seconded and carried unanimously.

Wayne Halblieb, Senior Assistant Attorney General/Section Chief, presented evidence that the continued practice as a certified nurse aide and as a registered medication aide by **Sonja Peeples Goldstone, CNA, RMA (1401-109384 and 0031-000963)** may present a substantial danger to the health and safety of the public.

Ms. Hershkowitz moved to summarily suspend the nurse aide certification and medication aide registration of **Sonja Peeples Goldstone** pending a formal administrative hearing and to offer a consent order for revocation of her nurse aide certification with a Finding of Abuse and medication aide registration in lieu of a formal hearing. The motion was seconded and carried unanimously.

The meeting was adjourned at 5:15 P.M.

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Claire Morris, RN, LNHA
Deputy Executive Director

Virginia Department of Health Professions
Cash Balance
As of May 31, 2021

	Nursing	
Board Cash Balance as June 30, 2020	9,306,557	
YTD FY21 Revenue	12,786,588	
Less: YTD FY21 Direct and Allocated Expenditures	12,695,181	*
Board Cash Balance as May 31, 2021	9,397,964	

*** Includes $61,136 deduction for Nurse Scholarship Fund**

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10100 - Nursing

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	2,396,660.00	2,488,425.00	91,765.00	96.31%
4002406	License & Renewal Fee	8,686,062.50	9,192,645.00	506,582.50	94.49%
4002407	Dup. License Certificate Fee	23,755.00	23,750.00	(5.00)	100.02%
4002408	Board Endorsement - In	57,120.00	64,790.00	7,670.00	88.16%
4002409	Board Endorsement - Out	415.00	18,270.00	17,855.00	2.27%
4002421	Monetary Penalty & Late Fees	160,155.00	231,415.00	71,260.00	69.21%
4002432	Misc. Fee (Bad Check Fee)	890.00	1,750.00	860.00	50.86%
	Total Fee Revenue	11,325,057.50	12,021,045.00	695,987.50	94.21%
4003000	Sales of Prop. & Commodities				
4003002	Overpayments	390.00	-	(390.00)	0.00%
4003020	Misc. Sales-Dishonored Payments	3,380.00	-	(3,380.00)	0.00%
	Total Sales of Prop. & Commodities	3,770.00	-	(3,770.00)	0.00%
4009000	Other Revenue				
4009060	Miscellaneous Revenue	43,500.00	26,500.00	(17,000.00)	164.15%
	Total Other Revenue	43,500.00	26,500.00	(17,000.00)	164.15%
	Total Revenue	11,372,327.50	12,047,545.00	675,217.50	94.40%
5011110	Employer Retirement Contrib.	233,181.23	323,005.00	89,823.77	72.19%
5011120	Fed Old-Age Ins- Sal St Emp	159,746.57	167,833.00	8,086.43	95.18%
5011140	Group Insurance	23,204.24	29,933.00	6,728.76	77.52%
5011150	Medical/Hospitalization Ins.	310,774.25	476,466.00	165,691.75	65.22%
5011160	Retiree Medical/Hospitalizatn	19,439.74	25,018.00	5,578.26	77.70%
5011170	Long term Disability Ins	10,559.23	13,626.00	3,066.77	77.49%
	Total Employee Benefits	756,905.26	1,035,881.00	278,975.74	73.07%
5011200	Salaries				
5011230	Salaries, Classified	1,749,000.77	2,233,782.00	484,781.23	78.30%
5011250	Salaries, Overtime	31,919.91	-	(31,919.91)	0.00%
	Total Salaries	1,780,920.68	2,233,782.00	452,861.32	79.73%
5011300	Special Payments				
5011310	Bonuses and Incentives	998.00	-	(998.00)	0.00%
5011380	Deferred Compnstn Match Pmts	6,512.00	17,640.00	11,128.00	36.92%
	Total Special Payments	7,510.00	17,640.00	10,130.00	42.57%
5011400	Wages				
5011410	Wages, General	346,258.60	290,916.00	(55,342.60)	119.02%
5011430	Wages, Overtime	198.00	-	(198.00)	0.00%
	Total Wages	346,456.60	290,916.00	(55,540.60)	119.09%
5011530	Short-trm Disability Benefits	2,923.62	-	(2,923.62)	0.00%
	Total Disability Benefits	2,923.62	-	(2,923.62)	0.00%
5011600	Terminatn Personal Svce Costs				
5011620	Salaries, Annual Leave Balanc	19,673.28	-	(19,673.28)	0.00%
5011640	Salaries, Cmp Leave Balances	195.04	-	(195.04)	0.00%
5011660	Defined Contribution Match - Hy	16,701.87	-	(16,701.87)	0.00%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10100 - Nursing

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
	Total Terminatn Personal Svce Costs	36,570.19	-	(36,570.19)	0.00%
5011930	**Turnover/Vacancy Benefits**		-	-	0.00%
	Total Personal Services	2,931,286.35	3,578,219.00	646,932.65	81.92%
5012000	**Contractual Svs**				
5012100	**Communication Services**				
5012110	**Express Services**	-	4,395.00	4,395.00	0.00%
5012120	**Outbound Freight Services**	5,299.66	10.00	(5,289.66)	52996.60%
5012140	**Postal Services**	136,337.66	85,633.00	(50,704.66)	159.21%
5012150	**Printing Services**	113.77	1,322.00	1,208.23	8.61%
5012160	**Telecommunications Svcs (VITA)**	16,074.07	21,910.00	5,835.93	73.36%
5012170	**Telecomm. Svcs (Non-State)**	517.50	-	(517.50)	0.00%
5012190	**Inbound Freight Services**	278.08	17.00	(261.08)	1635.76%
	Total Communication Services	158,620.74	113,287.00	(45,333.74)	140.02%
5012200	**Employee Development Services**				
5012210	**Organization Memberships**	8,800.00	8,764.00	(36.00)	100.41%
5012220	**Publication Subscriptions**	-	120.00	120.00	0.00%
5012240	**Employee Trainng/Workshop/Conf**	812.00	482.00	(330.00)	168.46%
	Total Employee Development Services	9,612.00	9,366.00	(246.00)	102.63%
5012300	**Health Services**				
5012360	**X-ray and Laboratory Services**	-	4,232.00	4,232.00	0.00%
	Total Health Services	-	4,232.00	4,232.00	0.00%
5012400	**Mgmnt and Informational Svcs**	-			
5012420	**Fiscal Services**	175,186.07	197,340.00	22,153.93	88.77%
5012440	**Management Services**	1,695.26	370.00	(1,325.26)	458.18%
5012460	**Public Infrmtnl & Relatn Svcs**	-	49.00	49.00	0.00%
5012470	**Legal Services**	6,060.00	5,616.00	(444.00)	107.91%
	Total Mgmnt and Informational Svcs	182,941.33	203,375.00	20,433.67	89.95%
5012500	**Repair and Maintenance Svcs**				
5012510	**Custodial Services**	4,348.06	-	(4,348.06)	0.00%
5012530	**Equipment Repair & Maint Srvc**	15,732.57	3,001.00	(12,731.57)	524.24%
5012560	**Mechanical Repair & Maint Srvc**	-	369.00	369.00	0.00%
	Total Repair and Maintenance Svcs	20,080.63	3,370.00	(16,710.63)	595.86%
5012600	**Support Services**				
5012630	**Clerical Services**	201,381.16	317,088.00	115,706.84	63.51%
5012640	**Food & Dietary Services**	5,012.71	-	(5,012.71)	0.00%
5012660	**Manual Labor Services**	33,917.28	38,508.00	4,590.72	88.08%
5012670	**Production Services**	195,334.16	158,515.00	(36,819.16)	123.23%
5012680	**Skilled Services**	732,726.31	1,164,774.00	432,047.69	62.91%
	Total Support Services	1,168,371.62	1,678,885.00	510,513.38	69.59%
5012800	**Transportation Services**				
5012820	**Travel, Personal Vehicle**	742.16	5,260.00	4,517.84	14.11%
5012830	**Travel, Public Carriers**	-	1.00	1.00	0.00%
5012840	**Travel, State Vehicles**	-	2,454.00	2,454.00	0.00%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10100 - Nursing

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012850	Travel, Subsistence & Lodging	226.59	6,635.00	6,408.41	3.42%
5012880	Trvl, Meal Reimb- Not Rprtble	145.50	3,597.00	3,451.50	4.05%
	Total Transportation Services	1,114.25	17,947.00	16,832.75	6.21%
	Total Contractual Svs	1,540,740.57	2,030,462.00	489,721.43	75.88%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013110	Apparel Supplies	159.98	-	(159.98)	0.00%
5013120	Office Supplies	21,629.19	11,696.00	(9,933.19)	184.93%
5013130	Stationery and Forms	65.02	3,790.00	3,724.98	1.72%
	Total Administrative Supplies	21,854.19	15,486.00	(6,368.19)	141.12%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	99.00	99.00	0.00%
	Total Manufctrng and Merch Supplies	-	99.00	99.00	0.00%
5013400	Medical and Laboratory Supp.				
5013420	Medical and Dental Supplies	23.49	-	(23.49)	0.00%
	Total Medical and Laboratory Supp.	23.49	-	(23.49)	0.00%
5013500	Repair and Maint. Supplies				
5013510	Building Repair & Maint Materl	61.92	-	(61.92)	0.00%
5013520	Custodial Repair & Maint Matrl	8.54	29.00	20.46	29.45%
	Total Repair and Maint. Supplies	70.46	29.00	(41.46)	242.97%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	145.75	408.00	262.25	35.72%
5013630	Food Service Supplies	-	1,108.00	1,108.00	0.00%
5013640	Laundry and Linen Supplies	-	22.00	22.00	0.00%
	Total Residential Supplies	145.75	1,538.00	1,392.25	9.48%
5013700	Specific Use Supplies				
5013730	Computer Operating Supplies	825.00	182.00	(643.00)	453.30%
	Total Specific Use Supplies	825.00	182.00	(643.00)	453.30%
	Total Supplies And Materials	22,918.89	17,334.00	(5,584.89)	132.22%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015120	Automobile Liability	-	163.00	163.00	0.00%
5015160	Property Insurance	-	504.00	504.00	0.00%
	Total Insurance-Fixed Assets	-	667.00	667.00	0.00%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	12,571.82	9,014.00	(3,557.82)	139.47%
5015350	Building Rentals	700.80	-	(700.80)	0.00%
5015360	Land Rentals	-	275.00	275.00	0.00%
5015390	Building Rentals - Non State	195,816.48	195,501.00	(315.48)	100.16%
	Total Operating Lease Payments	209,089.10	204,790.00	(4,299.10)	102.10%
5015400	Service Charges				
5015450	DGS Parking Charges	-	5.00	5.00	0.00%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10100 - Nursing

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5015460	SPCC And EEI Check Fees	-	5.00	5.00	0.00%
5015470	Private Vendor Service Charges:	50.74	-	(50.74)	0.00%
	Total Service Charges	50.74	10.00	(40.74)	507.40%
5015500	Insurance-Operations				
5015510	General Liability Insurance	-	1,897.00	1,897.00	0.00%
5015540	Surety Bonds	-	112.00	112.00	0.00%
	Total Insurance-Operations	-	2,009.00	2,009.00	0.00%
	Total Continuous Charges	209,139.84	207,476.00	(1,663.84)	100.80%
5022000	Equipment				
5022100	Computer Hrdware & Sftware				
5022170	Other Computer Equipment	1,016.36	-	(1,016.36)	0.00%
	Total Computer Hrdware & Sftware	1,016.36	-	(1,016.36)	0.00%
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	1,123.00	1,123.00	0.00%
	Total Educational & Cultural Equip	-	1,123.00	1,123.00	0.00%
5022300	Electrnc & Photographic Equip				
5022380	Electronic & Photo Equip Impr	-	1,666.00	1,666.00	0.00%
	Total Electrnc & Photographic Equip	-	1,666.00	1,666.00	0.00%
5022600	Office Equipment				
5022610	Office Appurtenances	-	202.00	202.00	0.00%
5022620	Office Furniture	4,754.50	-	(4,754.50)	0.00%
5022630	Office Incidentals	-	75.00	75.00	0.00%
	Total Office Equipment	4,754.50	277.00	(4,477.50)	1716.43%
5022700	Specific Use Equipment				
5022710	Household Equipment	188.73	133.00	(55.73)	141.90%
5022740	Non Power Rep & Maint- Equip	13.90	-	(13.90)	0.00%
	Total Specific Use Equipment	202.63	133.00	(69.63)	152.35%
	Total Equipment	5,973.49	3,199.00	(2,774.49)	186.73%
	Total Expenditures	4,710,059.14	5,836,690.00	1,126,630.86	80.70%
	Allocated Expenditures				
20400	Nursing / Nurse Aid	37,012.46	107,104.00	70,091.53	34.56%
30100	Data Center	1,309,173.39	2,003,610.03	694,436.64	65.34%
30200	Human Resources	139,297.06	163,887.68	24,590.62	85.00%
30300	Finance	792,575.88	920,415.00	127,839.11	86.11%
30400	Director's Office	269,272.90	330,712.88	61,439.97	81.42%
30500	Enforcement	2,243,412.24	2,594,922.12	351,509.88	86.45%
30600	Administrative Proceedings	684,572.16	694,701.51	10,129.35	98.54%
30700	Impaired Practitioners	64,956.41	117,466.76	52,510.34	55.30%
30800	Attorney General	214,198.99	173,388.26	(40,810.74)	123.54%
30900	Board of Health Professions	219,176.10	248,934.15	29,758.05	88.05%
31100	Maintenance and Repairs	2,360.94	14,748.58	12,387.63	16.01%
31300	Emp. Recognition Program	1,989.24	11,013.89	9,024.65	18.06%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10100 - Nursing

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
31400	Conference Center	9,764.36	2,136.89	(7,627.47)	456.94%
31500	Pgm Devlpmnt & Implmentn	103,881.32	148,273.05	44,391.73	70.06%
31800	CBC (Criminal Background Checks)	212,743.80	254,145.24	41,401.45	83.71%
	Total Allocated Expenditures	6,304,387.28	7,785,460.02	1,481,072.75	80.98%
	Net Revenue in Excess (Shortfall) of Expenditures	$ 357,881.08	$ (1,574,605.02)	$ (1,932,486.11)	22.73%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11200 - Certified Nurse Aides

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	4,925.00	300.00	(4,625.00)	1641.67%
4002406	License & Renewal Fee	1,076,920.00	1,200,800.00	123,880.00	89.68%
4002421	Monetary Penalty & Late Fees	-	330.00	330.00	0.00%
4002432	Misc. Fee (Bad Check Fee)	255.00	700.00	445.00	36.43%
	Total Fee Revenue	1,082,100.00	1,202,130.00	120,030.00	90.02%
4003000	Sales of Prop. & Commodities				
4003007	Sales of Goods/Svces to State	331,980.51	536,395.00	204,414.49	61.89%
4003020	Misc. Sales-Dishonored Payments	180.00	-	(180.00)	0.00%
	Total Sales of Prop. & Commodities	332,160.51	536,395.00	204,234.49	61.92%
4009000	Other Revenue				
	Total Revenue	1,414,260.51	1,738,525.00	324,264.49	81.35%
5011110	Employer Retirement Contrib.	14,344.07	10,664.97	(3,679.10)	134.50%
5011120	Fed Old-Age Ins- Sal St Emp	18,117.84	14,938.92	(3,178.92)	121.28%
5011140	Group Insurance	1,604.92	988.32	(616.60)	162.39%
5011150	Medical/Hospitalization Ins.	19,248.00	16,488.00	(2,760.00)	116.74%
5011160	Retiree Medical/Hospitalizatn	1,343.71	826.06	(517.65)	162.67%
5011170	Long term Disability Ins	731.36	449.91	(281.45)	162.56%
	Total Employee Benefits	55,389.90	44,356.17	(11,033.73)	124.88%
5011200	Salaries				
5011230	Salaries, Classified	120,030.58	73,755.00	(46,275.58)	162.74%
5011250	Salaries, Overtime	1,149.92	-	(1,149.92)	0.00%
	Total Salaries	121,180.50	73,755.00	(47,425.50)	164.30%
5011300	Special Payments				
5011380	Deferred Compnstn Match Pmts	-	960.00	960.00	0.00%
	Total Special Payments	-	960.00	960.00	0.00%
5011400	Wages				
5011410	Wages, General	118,644.45	121,525.00	2,880.55	97.63%
5011430	Wages, Overtime	295.92	-	(295.92)	0.00%
	Total Wages	118,940.37	121,525.00	2,584.63	97.87%
5011600	Terminatn Personal Svce Costs				
5011660	Defined Contribution Match - Hy	2,955.86	-	(2,955.86)	0.00%
	Total Terminatn Personal Svce Costs	2,955.86	-	(2,955.86)	0.00%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	298,466.63	240,596.17	(57,870.46)	124.05%
5012000	Contractual Svs				
5012100	Communication Services				
5012140	Postal Services	40,285.25	32,117.00	(8,168.25)	125.43%
5012150	Printing Services	5.86	276.00	270.14	2.12%
5012160	Telecommunications Svcs (VITA)	1,099.90	2,500.00	1,400.10	44.00%
5012190	Inbound Freight Services	2.60	-	(2.60)	0.00%
	Total Communication Services	41,393.61	34,893.00	(6,500.61)	118.63%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11200 - Certified Nurse Aides

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	125.00	125.00	0.00%
	Total Health Services	-	125.00	125.00	0.00%
5012400	Mgmnt and Informational Svcs	-			
5012420	Fiscal Services	20,355.30	24,920.00	4,564.70	81.68%
5012440	Management Services	291.06	530.00	238.94	54.92%
5012460	Public Infrmtnl & Relatn Svcs	-	10.00	10.00	0.00%
	Total Mgmnt and Informational Svcs	20,646.36	25,460.00	4,813.64	81.09%
5012500	Repair and Maintenance Svcs				
5012510	Custodial Services	677.60	-	(677.60)	0.00%
5012530	Equipment Repair & Maint Srvc	2,135.58	-	(2,135.58)	0.00%
5012560	Mechanical Repair & Maint Srvc	-	72.00	72.00	0.00%
	Total Repair and Maintenance Svcs	2,813.18	72.00	(2,741.18)	3907.19%
5012600	Support Services				
5012660	Manual Labor Services	1,650.46	2,454.00	803.54	67.26%
5012670	Production Services	8,518.85	10,300.00	1,781.15	82.71%
5012680	Skilled Services	8,474.54	48,303.00	39,828.46	17.54%
	Total Support Services	18,643.85	61,057.00	42,413.15	30.54%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	73.03	6,893.00	6,819.97	1.06%
5012840	Travel, State Vehicles	-	310.00	310.00	0.00%
5012850	Travel, Subsistence & Lodging	-	912.00	912.00	0.00%
5012880	Trvl, Meal Reimb- Not Rprtble	-	528.00	528.00	0.00%
	Total Transportation Services	73.03	8,643.00	8,569.97	0.84%
	Total Contractual Svs	83,570.03	130,250.00	46,679.97	64.16%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013110	Apparel Supplies	25.62	-	(25.62)	0.00%
5013120	Office Supplies	2,222.99	1,092.00	(1,130.99)	203.57%
5013130	Stationery and Forms	-	1,203.00	1,203.00	0.00%
	Total Administrative Supplies	2,248.61	2,295.00	46.39	97.98%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	20.00	20.00	0.00%
	Total Manufctrng and Merch Supplies	-	20.00	20.00	0.00%
5013400	Medical and Laboratory Supp.				
5013420	Medical and Dental Supplies	3.66	-	(3.66)	0.00%
	Total Medical and Laboratory Supp.	3.66	-	(3.66)	0.00%
5013500	Repair and Maint. Supplies				
5013510	Building Repair & Maint Materl	9.65	-	(9.65)	0.00%
5013520	Custodial Repair & Maint Matrl	1.33	-	(1.33)	0.00%
	Total Repair and Maint. Supplies	10.98	-	(10.98)	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	-	80.00	80.00	0.00%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11200 - Certified Nurse Aides

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5013630	Food Service Supplies	-	226.00	226.00	0.00%
	Total Residential Supplies	-	306.00	306.00	0.00%
	Total Supplies And Materials	2,263.25	2,621.00	357.75	86.35%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015160	Property Insurance	-	106.00	106.00	0.00%
	Total Insurance-Fixed Assets	-	106.00	106.00	0.00%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	21.02	-	(21.02)	0.00%
5015350	Building Rentals	62.40	-	(62.40)	0.00%
5015360	Land Rentals	-	50.00	50.00	0.00%
5015390	Building Rentals - Non State	29,106.47	30,203.00	1,096.53	96.37%
	Total Operating Lease Payments	29,189.89	30,253.00	1,063.11	96.49%
5015400	Service Charges				
5015470	Private Vendor Service Charges:	129.85	-	(129.85)	0.00%
	Total Service Charges	129.85	-	(129.85)	0.00%
5015500	Insurance-Operations				
5015510	General Liability Insurance	-	399.00	399.00	0.00%
5015540	Surety Bonds	-	24.00	24.00	0.00%
	Total Insurance-Operations	-	423.00	423.00	0.00%
	Total Continuous Charges	29,319.74	30,782.00	1,462.26	95.25%
5022000	Equipment				
5022100	Computer Hrdware & Sftware				
5022170	Other Computer Equipment	123.33	-	(123.33)	0.00%
	Total Computer Hrdware & Sftware	123.33	-	(123.33)	0.00%
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	162.00	162.00	0.00%
	Total Educational & Cultural Equip	-	162.00	162.00	0.00%
5022600	Office Equipment				
5022680	Office Equipment Improvements	-	4.00	4.00	0.00%
	Total Office Equipment	-	4.00	4.00	0.00%
5022700	Specific Use Equipment				
5022710	Household Equipment	29.41	-	(29.41)	0.00%
5022740	Non Power Rep & Maint- Equip	2.17	-	(2.17)	0.00%
	Total Specific Use Equipment	31.58	-	(31.58)	0.00%
	Total Equipment	154.91	166.00	11.09	93.32%
	Total Expenditures	413,774.56	404,415.17	(9,359.39)	102.31%
	Allocated Expenditures				
20400	Nursing / Nurse Aid	5,364.94	34,904.36	29,539.43	15.37%
30100	Data Center	98,227.51	165,265.70	67,038.19	59.44%
30200	Human Resources	12,506.71	12,801.61	294.90	97.70%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 11200 - Certified Nurse Aides

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
30300	Finance	184,787.26	202,579.54	17,792.27	91.22%
30400	Director's Office	62,897.65	72,788.54	9,890.88	86.41%
30500	Enforcement	662,718.61	870,305.25	207,586.64	76.15%
30600	Administrative Proceedings	97,787.39	176,122.15	78,334.77	55.52%
30700	Impaired Practitioners	650.35	2,498.17	1,847.82	26.03%
30800	Attorney General	3,533.82	55,054.77	51,520.95	6.42%
30900	Board of Health Professions	50,923.02	54,789.38	3,866.35	92.94%
31100	Maintenance and Repairs	364.74	2,278.49	1,913.75	16.01%
31300	Emp. Recognition Program	269.21	860.32	591.10	31.29%
31400	Conference Center	1,508.48	330.13	(1,178.36)	456.94%
31500	Pgm Devlpmnt & Implmentn	24,283.91	32,634.29	8,350.38	74.41%
	Total Allocated Expenditures	1,205,823.59	1,683,212.68	477,389.08	71.64%
	Net Revenue in Excess (Shortfall) of Expenditures	$ (205,337.64)	$ (349,102.85)	$ (143,765.21)	58.82%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 20400 - Nursing / Nurse Aide

For the Period Beginning July 1, 2020 and Ending May 31, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5011120	Fed Old-Age Ins- Sal St Emp	1,232.93	5,693.36	4,460.43	21.66%
	Total Employee Benefits	1,232.93	5,693.36	4,460.43	21.66%
5011300	Special Payments				
5011340	Specified Per Diem Payment	9,250.00	-	(9,250.00)	0.00%
	Total Special Payments	9,250.00	-	(9,250.00)	0.00%
5011400	Wages				
5011410	Wages, General	16,116.55	74,423.00	58,306.45	21.66%
	Total Wages	16,116.55	74,423.00	58,306.45	21.66%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	26,599.48	80,116.36	53,516.88	33.20%
5012000	Contractual Svs				
5012400	Mgmnt and Informational Svcs				
5012470	Legal Services	-	4,110.00	4,110.00	0.00%
	Total Mgmnt and Informational Svcs	-	4,110.00	4,110.00	0.00%
5012600	Support Services				
5012640	Food & Dietary Services	-	10,598.00	10,598.00	0.00%
5012680	Skilled Services	-	10,000.00	10,000.00	0.00%
	Total Support Services	-	20,598.00	20,598.00	0.00%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	6,389.91	16,757.00	10,367.09	38.13%
5012830	Travel, Public Carriers	508.37	39.00	(469.37)	1303.51%
5012850	Travel, Subsistence & Lodging	6,040.18	13,828.00	7,787.82	43.68%
5012880	Trvl, Meal Reimb- Not Rprtble	2,646.50	6,546.00	3,899.50	40.43%
	Total Transportation Services	15,584.96	37,170.00	21,585.04	41.93%
	Total Contractual Svs	15,584.96	61,878.00	46,293.04	25.19%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	192.96	-	(192.96)	0.00%
	Total Administrative Supplies	192.96	-	(192.96)	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	-	14.00	14.00	0.00%
	Total Residential Supplies	-	14.00	14.00	0.00%
	Total Supplies And Materials	192.96	14.00	(178.96)	1378.29%
5022800	Stationary Equipment				
	Total Expenditures	42,377.40	142,008.36	99,630.96	29.84%

2021 Monthly Tracking Log

C2

License Count	21-Jan	21-Feb	21-Mar	21-Apr	21-May	21-Jun	21-Jul	21-Aug	21-Sep	21-Oct	21-Nov	21-Dec
Nursing												
Massage Therapy	8,407	8,426	8,443	8,430	8,360	8,371						
Medication Aide	6,667	6,669	6,732	6,732	6,636	6,659						
Clinical Nurse Spec	405	406	408	406	403	394						
Nurse Practitioner	13,817	13,913	14,040	14,133	14,209	14,708						
Autonomous Practice	1,134	1,164	1,197	1,224	1,252	1,289						
Practical Nurse	28,259	28,300	28,300	28,290	28,256	28,218						
Registered Nurse	112,895	113,170	113,297	113,412	113,288	113,776						
Total for Nursing	**171,584**	**172,048**	**172,417**	**172,627**	**172,404**	**173,415**	**0**	**0**	**0**	**0**	**0**	**0**
Nurse Aide	**50,894**	**50,929**	**51,129**	**50,990**	**50,053**	**49,688**						
Advanced Nurse Aide	26	26	28	29	25	26						
Total for Nurse Aide	**50,920**	**50,955**	**51,157**	**51,019**	**50,078**	**49,714**	**0**	**0**	**0**	**0**	**0**	**0**
License Count Grand Total	**222,504**	**223,003**	**223,574**	**223,646**	**222,482**	**223,129**	**0**	**0**	**0**	**0**	**0**	**0**

Open Cases Count												
Nursing	1566	1599	1520	1582	1650	1622						
Nurse Aide	449	466	460	479	509	550						
Open Cases Total	**2,015**	**2,065**	**1,980**	**2,061**	**2,159**	**2,172**	**0**	**0**	**0**	**0**	**0**	**0**

Case Count by Occupation													*Total*
Rec'd RN	82	70	70	65	64	54							***405***
Rec'd PN	20	29	57	42	45	37							***230***
Rec'd NP, AP, CNS	21	20	15	19	28	29							***132***
Rec'd LMT	6	1	6	8	9	2							***32***
Rec'd RMA	8	6	10	12	7	9							***52***
Rec'd Edu Program	0	3	2	2	3	7							***17***
Total Received Nursing	**137**	**129**	**160**	**148**	**156**	**138**	**0**	**0**	**0**	**0**	**0**	**0**	***868***
Closed RN	43	38	107	77	15	78							***358***
Closed PN	31	21	51	36	13	52							***204***
Closed NP, AP, CNS	12	8	27	16	6	19							***88***
Closed LMT	3	7	4	4	1	5							***24***
Closed RMA	10	5	10	6	0	6							***37***
Closed Edu Program	2	3	2	0	1	0							***8***
Total Closed Nursing	**101**	**82**	**201**	**139**	**36**	**160**	**0**	**0**	**0**	**0**	**0**	**0**	***719***

Case Count - Nurse Aides													*Total*
Received	44	41	58	42	47	50							***282***
Rec'd Edu Program	0	1	1	0	1	0							***3***
Total Received CNA	**44**	**42**	**59**	**42**	**48**	**50**	**0**	**0**	**0**	**0**	**0**	**0**	***285***
Closed	69	12	75	21	18	8							***203***
Closed Edu Program	2	0	1	0	0	0							***3***
Total Closed CNA	**71**	**12**	**76**	**21**	**18**	**8**	**0**	**0**	**0**	**0**	**0**	**0**	***206***

All Cases Closed	**172**	**94**	**277**	**160**	**54**	**168**	**0**	**0**	**0**	**0**	**0**	**0**	***925***
All Cases Received	**181**	**171**	**219**	**190**	**204**	**188**	**0**	**0**	**0**	**0**	**0**	**0**	***1,153***

Agency Subordinate Recommendation Tracking Trend Log - 2010 to Present – Board of Nursing

Considered		Accepted		Modified*					Rejected					Final Outcome:** Difference from Recommendation				
Date	Total	Total	Total %	Total	Total %	# present	# ↑	# ↓	Total	Total %	# present	# Ref to FH	# Dis-missed	↑	↓	Same	Pend-ing	N/A
Total to Date:	*2283*	*2101*	*92.0%*	*142*	*6.2%*	*13*	*67*	*23*	*40*	*1.8%*	*8*	*21*	*5*	*49*	*53*	*60*	*0*	
CY2021 to Date:	*21*	*20*	*95.2%*	*1*	*4.8%*	*0*	*1*	*0*	*0*	*0.0%*	*0*	*0*	*0*				*N/A*	
May-21	5	5	*100.0%*	0	*0.0%*	0	0	0	0	*0.0%*	0	0	0	0	0	0	0	
Apr-21	0	0	*0.0%*	0	*0.0%*	0	0	0	0	*0.0%*	0	0	0	0	1	0	0	
Mar-21	16	15	*93.8%*	1	*6.3%*	0	1	0	0	*0.0%*	0	0	0	0	0	0	0	
Jan-21	0	0	*0.0%*	0	*0.0%*	0	0	0	0	*0.0%*	0	0	0	2	1	0	0	
Annual Totals:																		
Total 2020	*77*	*69*	*89.6%*	*6*	*7.8%*	*5*	*6*	*0*	*2*	*2.6%*	*0*	*2*	*0*	*4*	*0*	*0*	N/A	
Total 2019	*143*	*129*	*90.2%*	*12*	*8.4%*	*0*	*10*	*2*	*2*	*1.4%*	*2*	*0*	*2*	*0*	*0*	*1*	N/A	
Total 2018	*200*	*172*	*86.0%*	*24*	*12.0%*	*4*	*17*	*7*	*4*	*2.0%*	*0*	*4*	*0*	*4*	*10*	*7*	N/A	
Total 2017	*230*	*220*	*95.7%*	*8*	*3.5%*	*0*	*5*	*3*	*2*	*0.9%*	*0*	*2*	*0*	*2*	*4*	*6*	N/A	
Total 2016	238	226	*95.0%*	8	*3.4%*	0	8	0	4	*1.7%*	2	4	0	4	8	2	N/A	
Total 2015	238	217	*91.2%*	14	*5.9%*	2	12	2	7	*2.9%*	3	6	1	9	6	5	N/A	
Total 2014	257	235	*91.4%*	17	*6.6%*	2	8	9	5	*1.9%*	1	3	2	3	3	7	N/A	
Total 2013	248	236	*95.2%*	10	*4.0%*				2	*0.8%*				3	6	2	N/A	
Total 2012	229	211	*92.1%*	15	*6.6%*				3	*1.3%*				4	6	9	N/A	
Total 2011	208	200	*96.2%*	6	*2.9%*				2	*1.0%*				4	1	12	N/A	
Total 2010	194	166	*85.6%*	21	*10.8%*				7	*3.6%*				7	9	9	N/A	

** Modified = Sanction changed in some way (does not include editorial changes to Findings of Fact or Conclusions of Law. ↑ = additional terms or more severe sanction. ↓ = lesser sanction or impose no sanction.*

*** Final Outcome Difference = Final Board action/sanction after FH compared to original Agency Subordinate Recommendation that was modified (then appealed by respondent to FH) or was Rejected by Board (& referred to FH).*

HPMP Quarterly Report (April 1, 2021 - June 30, 2021)

Board	License	Admissions[1]		Stays[2]	Comp[3]	Vacated Stays[4]		Dismissals[5]				
		Req.	Vol.			Vac. Only	Vac. & Dism.	N/C	Inel.	Dism. Resig.	Resig.	Death
`	LNP	1										
`	LPN	3						1		2		
`	RN	13	1		5			2		2		
`	Massage Ther							1				
`	CNS											
Nursing Total		**17**	**1**		**5**			**4**		**4**		
`	CNA							1				
`	RMA											
CNA Total								**1**				
`	DC				1							
`	DO											
`	DPM											
`	Intern/Resident		2									
`	LAT		1									
`	LBA											
`	Lic Rad Tech											
`	MD	4	4		1	1		1				1
`	OT							1				
`	PA											
`	RT	2										
`	LM											
`	OTA											
`	SA											
Medicine Total		**6**	**7**		**2**	**1**		**2**				**1**
`	Pharmacist		1						1			
`	Pharm Tech									1		
`	Intern											
Pharmacy Total			**1**						**1**	**1**		
`	DDS							1				
`	DMD	1										
`	RDH	1										
Dentistry Total		**2**						**1**				
`	LPC											
`	CSAC							1				
`	Post Graduate Trainee											
`	QMHP-Adult											
`	QMHP-Child											
Counseling Total								**1**				
`	DVM		1									
`	Vet Tech	1										
Veterinary Medicine Total		**1**	**1**									
`	PT				1							
`	PTA											
Physical Therapy Total					**1**							
TOTALS		**26**	**10**	**0**	**8**	**1**	**0**	**9**	**1**	**5**	**0**	**1**

Admissions[1]: Req=Required (Board Referred, Board Ordered, Investigation); Vol=Voluntary (No known DHP involvement at time of intake)

Stays[2]: Stays of Disciplinary Action Granted

Comp[3]: Successful Completions

Vacated Stays[4]: Vac Only=Vacated Stay Only; Vac &Dism=Vacated Stay &Dismissal

Dismissals[5]: N/C=Dismissed Non-Compliant; Inel=Dismissed Ineligible; Dism Resig=Dismissed due to Resignation; Resig=Resignation

Virginia Board of Nursing

Executive Director Report

July 20, 2021

Meetings/Speaking Engagements

- On May 10 and June 7, 2021, Jacquelyn Wilmoth, Deputy Executive Director for Education, participated in an information exchange and networking meeting with several state regulatory authorities (NC, PA, GA and KY) regarding the use of temporary nurse aides (TNAs) in long term care (LTC).

- On May 11-12, 2021, Jay P. Douglas attended the virtual NCSBN Board of Directors meeting as the NCSBN Board of Directors President. Full report to follow.

- On May 13, 2021, Stephanie Willinger, Deputy Executive Director for Licensure, participated in the virtual Massage Therapy Compact "kick off" meeting sponsored by the Council of State Governments attended by over 200 practitioners, regulators, and industry advocates regarding the progressing Massage Therapy Compact initiative.

- On May 17, 2021, Jay Douglas, Executive Director, and key Board of Nursing staff met with representatives of Credentia and NCSBN. NCSBN owns the intellectual property related to the National Nurse Aide examination. There will be a 12 month transition process and more information will be available as to the impact on the board in the coming months. Credentia has plans in improve the nurse aide application process and will be modernizing testing approaches.

- On May 19 and 20, 2021, Ann Tiller, Compliance Manager, and Patricia Dewey, Disciplinary Case Manager, attended the 2021 NCSBN Discipline Case Management Conference virtually. The objectives included:
  - Recognize the human behavior behind fraudulent activity
  - Identify nursing practice assessment and remediation for practice violations
  - Appraise case decisions to verify they are not unreasonable, unlawful, arbitrary, unsupported or wrong
  - Expand knowledge regarding the opioid epidemic
  - Employ the rules of the Nurse Licensure Compact (NLC) to the disciplinary investigative process
  - Expand knowledge related to emotional intelligence and resilience

- On May 21, 2021, Jacquelyn Wilmoth, Deputy Executive Director provided the graduation speech to Bedford County School of Practical Nursing.

- On May 25 and 26, 2021, Christine Smith, Nurse Aide RMA Program Manager, provided virtual education seminars to nurse aide education programs reviewing regulatory standards and site visit preparation. There were approximately 180 attendees between the two days.

- On June 8, 2021, Christine Smith, Nurse Aide/RMA Program Manager, Randall Mangrum, Nursing Education Program Manager, and Jacquelyn Wilmoth, Deputy Executive Director, staffed the Education IFC. Continued Faculty exception requests were considered for two nursing programs and one nursing program was in attendance for NCLEX pass rates <80% for four consecutive years.

- June 8, 2021, Jay Douglas attended the Spring Tri Council meeting. The Council is comprised of five national organizations representing nursing practice education and regulation. The purpose of the meeting was to discuss the final report of the Tri Council Summit which focused on the collective responses to the COVID-19 Pandemic

- June 9, 2021, Jay Douglas provided a Board of Nursing update to the VNA Board of Directors (BOD) at their regularly scheduled meeting. Items of particular interest to the BOD were the implementation of the various statutory changes affecting Advanced Practice Registered Nurses that go into effect July 1 as well as upcoming Board Member vacancies.

- On June 10, 2021, Jacquelyn Wilmoth, Deputy Executive Director, and Randall Mangrum, Nursing Education Program Manager, hosted an education seminar for nursing programs on maintaining regulatory requirements and preparing for survey visits.

- On June 24, 2021, a virtual meeting was held with Nurse Education Inspectors for nurse aide education programs with all current inspectors (8) present, including two newly hired inspectors, Bethanie Fields and Charlette Ridout to review processes and discuss job roles. A retirement farewell was given to all for JoAnn Scott and Marsha Dubbe as they finish their last week at the board.

NCSBN

Letter from the President

POST-BOARD MEETING UPDATE

May 24, 2021

Dear Colleagues,

It is hard to believe that we are well into 2021 and still continuing to meet and live in unusual times. The Board of Directors (BOD) May 2021 virtual meeting began with the customary environmental scan, which was a stark reminder that although things are moving in a more positive direction nurse regulatory boards around the world and within the U.S. are in different phases in regard to returning to normalcy. Unfortunately, this pandemic is not quite over. Themes that emerged from the environmental scan will likely not surprise any of you. Themes included staff shortages, returning to "the building," vaccinations, return to "lockdown," the impact of sudden lifting of executive orders or regulatory waivers, legislative activity, international candidates, transition to ORBS, APRN matters, support workers, lessons learned and "when can we see each other again." The BOD agreed that flexibility is key in planning for the future and acknowledges that at any time nurse regulators may be challenged with having to pivot with little warning. The challenge and opportunity for nurse regulatory boards and NCSBN is to use what we have learned to prepare for a future that includes transforming nursing regulation and exploring new ways to do business.

The BOD spent some time discussing the involvement of the membership as well as various options for meeting and conference participation that focuses on maximizing in person and virtual engagement.

The BOD received and acted upon financial, statistical, research, data security, government affairs and policy related reports. A key agenda item included the BOD approving the recommendations for the 2021 Delegate Assembly. Information will be forthcoming to the membership to assist attendees in preparing for the August meeting when delegates will act on the recommendations. Significant recommendations this year include:

- 2021 Slate of Candidates
- Revisions to the NCSBN Model Act and Rules
- Next Generation NLCEX® test design

Committee members and staff have put a lot of thought and effort into the important business that will come before you during the Annual Meeting and for that I am very appreciative.

The awards ceremony this year will be held on July 29, separate from the Annual Meeting, in order to provide an opportunity to celebrate service and accomplishments. During the awards ceremony we will use a unique platform that will allow for interaction among members. NCSBN plans to also recognize these same recipients in person at the Annual Meeting in 2022. The BOD is acutely aware of what we have lost by not being able to interact in person especially at a time when there are good things to celebrate, welcomes to be made and losses to acknowledge. A key loss for the BOD is the Area 1 Director, Cynthia LaBonde who is taking early retirement from the Wyoming State Board of Nursing as a result of a family illness. The BOD acknowledged Cynthia's years of service and her contributions to the work of NCSBN and wishes her well.

In parting, I want to salute my colleagues who have been challenged by the pandemic in many ways you never could have prepared for, and yet every day you continue to do what needs to be done. My hat is off to you all!!

Warm Regards,
Jay Douglas, MSM, RN, CSAC, FRE
President
804.516.9028 | jay.douglas@dhp.virginia.gov

VIRGINIA BOARD OF NURSING
VIRTUAL **Meeting of the Medication Aide Curriculum Committee**
June 9, 2021

TIME AND PLACE:	The virtual Webex meeting of the Virginia Board of Nursing was called to order at 9:05 A.M. on June 8, 2021. 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.
MEMBERS VIRTUALLY PARTICIPATED:	Felisa Smith, RN, MSA, MSN/ED, CNE, Chair Margaret Friedenberg, Citizen Member Dixe McElfresh, LPN
STAFF VIRTUALLY PARTICIPATED:	Jacquelyn Wilmoth, MSN, RN, Deputy Executive Director Christine Smith, Nurse Aide/RMA Education Program Manager Beth Yates, Nursing and Nurse Aide Education Coordinator
OTHERS PARTICIPATED: VIRTUALLY	April Payne, VHAC, Virginia Center for Assisted Living Dana Parsons, Leading Age of Virginia Vonnie Adams, Administrator, Williamsburg Landing Rhonda Whitmer, Virginia Department of Social Services, Licensing Inspector Karen Mittura – Germanna Community College, Medication Aide Education Program Krystal Lotts, Wellness Concepts Teresa Mason, Fresh Start, Medication Aide Education Program Jennifer Perez, A & J Total care Enterprises, Medication Aide Education Program Dawn Ellis, OmniCare/CVS
PUBLIC COMMENT:	There was no one present for public comment.

DISCUSSION OF CURRICULUM REVISIONS:

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Ms. Felisa Smith explained that the committee has been charged with the review and revision of the Medication Aide Curriculum. She stated that in an attempt to increase efficiency, the board intends to maintain the committee to no more than 10 content experts; in selecting the committee members, the board ensured there was representation from each program type along with stakeholders who have expertise in this area. She explained the goal of the committee is to determine what the revised curriculum should look like with the intent that the curriculum is to provide a framework that will allow programs to modify the content to fit student needs and their unique teaching modality.

A discussion ensued regarding the use of medication aides in nursing home settings. Ms. April Payne explained that this was in practice in North Carolina, Maryland and Ohio.

Ms. Wilmoth explained that this would require a regulatory change and is not in the scope of this committee's charge. Ms. Wilmoth asked the committee to discuss changes that can be made to the curriculum with regard to current regulations. She requested that committee members give their opinion regarding possible causes for low pass rates in Virginia, which are between 58% and 62%, while highlighting the current requirement of an 80% pass rate.

Ms. Teresa Mason, Fresh Start, stated that one of the problems she has encountered is students are sent by their facility employers to participate in the training but the students are not truly engaged in the program.

Ms. Dawn Ellis stated that language barriers also present difficulties with comprehension and testing.

Ms. Karen Mittura stated it is difficult to follow up with the students once they have graduated from the program. She also stated that delays in testing seem to be related to the application process.

Ms. Felisa Smith asked the committee for suggestions to change the curriculum to make it more applicable to the medication aide course.

Christine Smith asked the programs to explain what they may have added to the curriculum to make it uniquely their own.

Ms. Rhonda Whitmer said she had added videos so the students had both written and visual instruction in the required skills.

Ms. Felisa Smith reminded the committee that at this meeting they are discussing general ideas of where graduates fall short relative to changes that may be made in the curriculum with a goal to increase the pass rates.

The committee was unanimous in its opinion that more required skills hours and medications cited in the curriculum are in need of updating.

Ms. Wilmoth inquired if the worksheets are necessary in the current curriculum or if they are too restrictive.

The consensus was that the worksheets were helpful in the teaching of the curriculum content.

Ms. Christine Smith said she believed the worksheets could be too prescriptive but may be retained as an appendix to the curriculum to allow programs autonomy in delivery of content.

Ms. Felisa Smith said that the curriculum is providing the framework and content to ensure that the program remains able to graduate medication aides who can practice safely. The method of delivery should be determined by the program.

Ms. April Payne said that RMAs are requiring on-the-job-training once they have been hired. She would like to see more skills hours required. She further said she will like to see the Medication Aide curriculum designed to be similar in appearance to the Nurse Aide curriculum.

There was a discussion regarding admissions criteria and the use of a comprehensive test at the end of the program.

Ms. Felisa Smith said admission criteria and the use of a test will be determined by the programs.

Ms. Jennifer Perez shared her experience that direct care aides have a lower pass rates than CNA's and suggested a regulatory change requiring NA or CNA prerequisite.

Ms. Teresa Mason said this would make it difficult for assisted living facilities and nursing homes to find and keep staff.

Ms. Jacquelyn Wilmoth asked the members to provide a list of what changes are needed to the current curriculum. Ms. Felissa Smith asked the committee to also provide evidence-based reasons for the suggestions and email the information to Ms. Jacquelyn Wilmoth or Ms. Christine Smith no later than June 28, 2021.

The next meeting of the committee shall be July 8, 2021 at 10:00 a.m. in person at the board office.

Meeting adjourned at 10:17a.m.

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Jacquelyn Wilmoth, MSN, RN
Deputy Executive Director

VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE
VIRTUAL **BUSINESS MEETING**
MINUTES
June 16, 2021

TIME AND PLACE: The virtual meeting of the Committee of the Joint Boards of Nursing and Medicine via Webex was called to order at 9:02 A.M., June 16, 2021.

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 Committee convened a virtual meeting to consider such regulatory and business matters as was presented on the agenda for the Committee to discharge its lawful purposes, duties, and responsibilities.

COMMITTEE MEMBERS PARTICIPATED VIRTUALLY:
Marie Gerardo, MS, RN, ANP-BC; Chair
Ann Tucker Gleason, PhD
Louise Hershkowitz, CRNA, MSHA
David Archer, MD
Karen Ransone, MD

MEMBERS ABSENT: Lori Conklin, MD

ADVISORY COMMITTEE MEMBERS PARTICIPATED VIRTUALLY:
Kevin E. Brigle, RN, NP
Mark Coles, RN, BA, MSN, NP-C
David Alan Ellington, MD
Stuart Mackler, MD
Komkwuan P. Paruchabutr, DNP, FNP-BC, WHNP-BC, CNM
Janet L. Setnor, CRNA

STAFF PARTICIPATED VIRTUALLY:
Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director; Board of Nursing
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Advanced Practice; Board of Nursing
Stephanie Willinger, Deputy Executive Director for Licensing; Board of Nursing
Huong Vu, Executive Assistant; Board of Nursing

OTHERS PARTICIPATED VIRTUALLY:
Charis Mitchell, Assistant Attorney General; Board Counsel
David Brown, DO, Director; Department of Health Professions
Barbara Allison-Bryan, MD; Chief Deputy, Department of Health Professions

Elaine Yeatts, Policy Analyst; Department of Health Professions
William L. Harp, MD, Executive Director; Board of Medicine
Ann Tiller, Board of Nursing Compliance Manager
Patricia Dewey, RN, BSN; Board of Nursing Case Manager
Randall Mangrum, DNP, RN; Nursing Education Program Manager

PUBLIC PARICIPATED VIRTUALLY:

W. Scott Johnson, Esquire/Hancock, Daniel & Johnson, PC
Ben Traynham, Hancock, Daniel & Johnson, PC
Kathy Martin, Hancock, Daniel & Johnson, PC
Clark Barrineau, Assistant Vice President of Government Affair, Medical Society of Virginia (MSV)
Jerry J. Gentile, Department of Planning Budget (DPB)
Gerald C. (Jerry) Canaan, II, Esq. Byrne Legal Group
Julianne Condrey, VP Government and Association Relations, Aegis Association, LLC
Andrew Lamar, Lobbyist, VPAP
Kassie Schroth, Virginia Association of Nurse Anesthetists (VANA)
Richard Grossman, Virginia Council of Nurse Practitioners (VCNP)
Becky Bower-Lanier, Virginia Association of Nurse Specialists (VaCNS)
Cynthia Ward, Virginia Association of Nurse Specialists (VaCNS)
Lucy Smith
Marjorie Smith, PMHCNS
Aimee Seibert
K. Wilkinson
Mark Hickman
Kristie Burnette
Brandi Wood
Rebecca Schultz
Missy Wesolowski
18044****82
18044****65
18046****40

ESTABLISHMENT OF A QUORUM:

Ms. Gerardo called the meeting to order and established that a quorum consisting of five members was present.

ANNOUNCEMENT:

Ms. Gerardo noted the announcement as stated in the Agenda:

- Appreciation for Louise Hershkowitz' service on the Committee of the Joint Boards of Nursing and Medicine.

Ms. Gerardo recognized that Ms. Hershkowitz has served on the Board of Nursing (BON) for eight (8) years, served as BON President, and served as Chair to the Committee of the Joint Boards of Nursing and Medicine.

Ms. Gerardo also thanked Ms. Hershkowitz for incorporating the Environmental Scan as well as educational training into the agendas of the Committee of the Joint Boards and to the BON as well as for her invaluable mentorship..
Ms. Hershkowitz commented that it was an honor and privilege to serve on the BON and on the Committee of the Joint Boards.

There were no additional announcements.

REVIEW OF MINUTES: Ms. Gerardo stated that staff provided the following documents electronically:

- **A1** April 21, 2021 Business Meeting
- **A2** April 21, 2021 Informal Conference

Ms. Gerardo asked if the Committee had any questions regarding the minutes. None was noted.

Ms. Hershkowitz moved to accept the minutes as presented. The motion was properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

DIALOGUE WITH AGENCY DIRECTOR: Dr. Brown reported the following:
The Governor announced that the State of Emergency in Virginia due to COVID-19 will end on June 30, 2021, which means virtual meetings will also end. DHP staff have adjusted well to working remotely.

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

- 69% of adult Virginians have been vaccinated with the goal to reaching 70% by July 4, 2021. 14 states have met this 70% goal
- Almost 40% of adolescents in Virginia have been vaccinated

Ms. Gerardo inquired about the status of legislation regarding compensation for preceptors of nurse practitioner students. Dr. Brown replied that he has no updates at this time. Ms. Douglas noted that the Virginia Council of Nurse Practitioners (VCNP) and Virginia Nurses Association (VNA) will be the best resources regarding this matter.

PUBLIC COMMENT: Ms. Gerardo said that as indicated in the meeting notice on Regulatory Townhall and in the agenda package, comments will be received during this public comment period from those persons who submitted an email comment request to Huong Vu no later than 8 am on June 16, 2021.

Ms. Gerardo asked if any email requests had been received. Ms. Vu reported that an email request for public comment from Marjorie Smith, Psychiatric Mental Health Clinical Nurse Specialist (PMHCNS) was received.

Ms. Gerardo instructed Ms. Smith to limit her comment to 3-5 minutes.

Ms. Smith commented that she has been practicing as a CNS since 1990 and does not prescribe. She and many CNSs are impacted by the recent law passed which requires CNSs to have a practice agreement with a physician. Ms. Smith stated that she would need to discontinue providing care to her caseload of approximately 75 at-risk patients due to this new requirement. Ms. Smith asked for correction to the bill for those CNSs who do not prescribe. Ms. Smith added that if any CNSs who need help with finding a physician, please contact Lucy Smith, who is a PMHCNS and works for the Virginia Board of Nursing.

Ms. Gerardo then offered an opportunity to anyone who did not sign up to speak and reminded everyone to limit their comments to 3-5 minutes.

Katie Page, CNM, MSM, FACNM, President of Virginia Affiliate of American College of Nurse-Midwives, thanked the Board for their work on the autonomous practice for CNMs with 1,000 hours. Ms. Page offered her expertise if the Board needs help.

In the absence of additional requests for public comment, Ms. Gerardo concluded the public comment period.

LEGISLATION/
REGULATIONS:

Ms. Gerardo stated that the following documents were provided electronically by staff:

- **B1** Chart of Regulatory Actions as of June 1, 2021
- **B2** Chart of Post-General Assembly Actions/Studies
- **B3** Regulatory Actions – Adoption of Exempt Regulations Pursuant to **2021 Legislation** Draft Regulations for Licensure of Nurse Practitioners (**Chapter 30**), and Prescriptive Authority for Nurse Practitioners (**Chapter 40**)
- **B4** Fast-Track Changes for the Licensure of Nurse Practitioners(**Chapter 30**) and the Prescriptive Authority for Nurse Practitioners (**Chapter 40**) – verbal report

Ms. Gerardo invited Ms. Yeatts to proceed.

Ms. Yeatts reviewed **B1** and **B2** which were provided in the agenda.

B3 Regulatory Actions – Adoption of Exempt Regulations Pursuant to **2021 Legislation** Draft Regulations for Licensure of Nurse Practitioners (**Chapter 30**), and Prescriptive Authority for Nurse Practitioners (**Chapter 40**)
Ms. Yeatts reviewed **HB1737** (practice of nurse practitioners without practice agreement with at least two years of full-time clinical experience

as a licensed nurse practitioner) noting that the provision of this act will be effective on July 1, 2021 and will expire on July 1, 2022.

Ms. Yeatts reviewed **HB1817** (practice of certified nurse midwives without practice agreement) noting that this provision applies to the certified nurse midwives who have completed 1,000 hours of practice as certified nurse midwives.

Dr. Parachubutr asked if the 1,000-hour requirement has to be completed in Virginia. Ms. Yeatts replied that it does not.

Dr. Ellington asked if certified nurse midwives who enter into a practice agreement are required to have autonomous practice. Ms. Yeatts responded that they must have two years of clinical practice but the law does not specify that they have the autonomous practice designation.

Ms. Yeatts reviewed **HB1747** (practice of clinical nurse specialists as licensed nurse practitioners) noting that the effective date is July 1, 2021. Changes from the registration as clinical nurse specialists to licensure as nurse practitioners in the category of clinical nurse specialists by the Boards of Medicine and Nursing and authorizes prescriptive authority. A Practice Agreement is now required for all CNSs. CNSs who desire to prescribe must apply for prescriptive authority.

Ms. Yeatts then reviewed revisions to the Regulations Governing the Licensure of Nurse Practitioners (Chapter 30) and Regulations for Prescriptive Authority for Nurse Practitioners (Chapter 40). Ms. Yeatts stated that the draft regulations are presented for Committee's consideration to recommend adoption of changes to conform to changes in the Code of Virginia.

Ms. Hershkowitz moved to recommend the adoption of the changes to Regulations Governing the Licensure of Nurse Practitioners (Chapter 30) and Regulations for Prescriptive Authority for Nurse Practitioners (Chapter 40) to conform to changes in the Code of Virginia. The motion was properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

B4 Fast-Track Changes for the Licensure of Nurse Practitioners(**Chapter 30**) and the Prescriptive Authority for Nurse Practitioners (**Chapter 40**) Ms. Yeatts stated that this agenda item was deferred for consideration at the upcoming business meetings of the Board of Nursing and the Board of Medicine.

Dr. Parachubutr inquired about the status of the licensed certified midwives bill (HB1953). Ms. Yeatts responded that, because it is a new category of licensure with no current regulations, it has to go through

Administrative Process Act (APA). Ms. Yeatts added that the Notice of Intended Regulatory Action (NOIRA) will be considered by Board of Nursing at its July meeting and by Board of Medicine at its August meeting.

Dr. Gleason noted her appreciation for Ms. Yeatts' expertise.

Ms. Douglas stated that with regard to Marjorie Smith's public comment referencing Lucy Smith as a contact person for clinical nurse specialists, board staff is not authorized to identify physicians who can provide consultation to clinical nurse specialists as part of the practice agreement requirement.

RECESS: The Committee recessed at 10:02 A.M.

RECONVENTION: The Committee reconvened at 10:12 A.M.

NEW BUSINESS:

C1 – 2022 Committee of the Joint Boards of Nursing and Medicine Meeting Dates:

Ms. Douglas reviewed the 2022 Committee meeting dates noting that currently there are no rooms available for December 2022 meeting date. Staff will continue to monitor room availability and notify the Committee.

Revision of Guidance Document (GD) 90-56 – *Practice Agreement Requirements for Licensed Nurse Practitioners*:

Ms. Gerardo stated that the following documents have been provided:

- **C2a –** Current Version of GD 90-56
- **C2b –** Proposed Draft Version of GD 90-56
- **C2c –** Nurse Practitioner Side-by-Side Comparison Table (**FYI**)

Ms. Gerardo invited Dr. Hills to proceed.

Dr. Hills stated that she refers to this GD frequently to answer public inquiries regarding practice agreement requirements. Dr. Hills then proceeded to review the proposed changes of the GD 90-56.

Ms. Hershkowitz moved to recommend the adoption of changes to GD 90-56 as presented to the Boards of Nursing and Medicine. The motion was properly seconded by Dr. Archer. A roll call was taken and the motion carried unanimously.

Committee Members suggested posting the Nurse Practitioner Side-by-Side Comparison Table on Townhall and Nursing websites. Ms. Douglas stated that, although it is unlikely that it can be posted to Townhall, staff will explore posting options for easy public access.

C3 – Communication sent to all CNSs on May 27, 2021:
Ms. Douglas acknowledged Ms. Willinger for taking the lead on this communication and it is provided for information only.

C4 – Sentara Letter:
Ms. Douglas noted that this is provided for information only and that the response to Sentara was that the Board is not authorized to grant a waiver.

HB 793 – Preliminary Report on Nurse Practitioners with Autonomous Practice Designation – Dr. Carter, Healthcare Workforce Data Center (HWDC) Executive Director, and Rajana Siva, HWDC Data Analyst

Ms. Gerardo stated that the following were provided:

- Bate Stamped Materials from 001 to 017
- Results in Tableau online interactive map and table with dropdown menus link: https://public.tableau.com/profile/rajana.siva#!/vizhome/npspecialtycounts/Story1

Ms. Gerardo invited Dr. Carter to proceed.

Ms. Douglas commented that this is related to the HB 793 (2018) requirement to collect data on traditional nurse practitioners with autonomous practice.

Dr. Carter reviewed the bate stamped materials from 001 and 017 and results in Tableau online interactive map. Dr. Carter said that she is available for questions.

Ms. Hershkowitz asked the end date of the data. Dr. Carter replied as of April 30, 2021. Ms. Douglas added that data collection for the final report will end on June 30, 2021.

Dr. Archer commented that he is happy to see that actual violations are minimal with low mean and median and that Virginia has a well maintained and competent healthcare workforce.

Mr. Brigle asked how often the online interactive map will be updated. Ms. Douglas replied that it will be discussed at DHP.

Discussion regarding "*any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement*" (HB 793, 2018) – **Committee Members and Advisory Committee Members**

Ms. Gerardo asked for recommendations to report from Committee Members and Advisory Committee Members.

Ms. Douglas noted that the data presented in the report related to five years clinical experience data, not two years.

Ms. Hershkowitz inquired if the similar data are available from other states. Ms. Douglas responded that there are data available but the enactment clause does not require those data.

Ms. Mitchell suggested maybe including a recommendation regarding the attestation.

After discussion, the Committee included the following recommendations to the report:

- Two-year data should be considered;
- Comparison of two years data and five years data;
- Reducing clinical experience to two years permanently or even removing time requirement completely;
- Removing restrictions (such as practice agreement, supervision and out-of-state attestation) to allow well trained and qualified nurse practitioners to practice to full scope as long as the public is not harmed;
- Recommend a parallel to CNM 2021 legislation allow experienced CNM & MD to enter into practice agreement
- Incorporating national data;
- For out-of-state nurse practitioners, the Board should consider violations or suspensions only;
- Consider internal military report which provides incidents by specialty with negative outcomes for each branch of the military
- For nurse practitioners who are seeking autonomous practice, self-attestation or using practice agreement dates should be considered; and
- Moving toward APRN Compact which requires advanced practice registered nurses to have 2,080 hours of clinical experience

Ms. Mitchell noted that recommendations should align with national requirements.

ENVIRONMENTAL SCAN: Ms. Gerardo asked for the updates from the Advisory Committee Members.

Mr. Brigle commented that tax break for preceptors update would be appreciated.

No additional updates were noted.

Ms. Gerardo thanked Advisory Committee members for their participation in the meeting and reminded everyone that the next meeting is scheduled for Wednesday, October 13, 2021.

The Advisory Committee Members, Dr. Brown, Dr. Allison-Bryan, Dr. Harp and Ms. Yeatts, left the meeting at 10:23 A.M.

RECESS: The Committee recessed at 11:57 A.M.

RECONVENTION: The Committee reconvened at 12:32 P.M.

CONSIDERATION OF CONSENT ORDER

Ms. Gerardo said that the Committee have one Consent Order for consideration. Copy of the Consent Order was mailed to the Committee Member in advance.

Charmayne L. Lanier-Eason, LNP

Ms. Gerardo asked if the Committee Members wishes to go into the closed meeting for discussion. None was noted.

ACTION: Ms. Hershkowitz moved to accept the consent order to indefinitely suspend the license of **Charmayne L. Lanier-Eason** to practice as a nurse practitioner in the Commonwealth of Virginia with suspension stayed upon proof of Ms. Lanier-Eason's entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP), compliance with all terms and conditions of the HPMP for the period specified by the HPMP, and additional terms and conditions. The motion was properly seconded by Dr. Ranson. A roll call was taken and the motion was carried unanimously.

AGENCY SUBORDINATE RECOMMENDATION CONSIDERATION

The Committee had one Agency Subordinate recommendation for consideration. Copy of the recommendation was mailed to the Committee Members in advance.

#1 – Darlene Whitfield Olive, LNP

Ms. Olive was not present to address the Committee regarding her Agency Subordinate recommendation.

CLOSED MEETING: Ms. Hershkowitz moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 12:35 P.M., for the purpose to reach a decision in the matter of Darlene Whitfield Olive's Agency

Subordinate Recommendation. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Dr. Hills, 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 Dr. Ransone. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 12:53 P.M.

Ms. Hershkowitz moved that the Committee of the Joint Boards of Nursing and Medicine 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 Dr. Archer. A roll call was taken and the motion carried unanimously.

Ms. Olive joined the meeting at 12:53 P.M. noting that she had technical difficulties joining the Webex. Ms. Olive requested to address the Committee regarding her Agency Subordinate recommendation.

Ms. Gerardo instructed Ms. Olive that she has five minutes to address the Committee and no new information can be provided.

CLOSED MEETING: Ms. Hershkowitz moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 1:00 P.M., for the purpose to reach a decision in the matter of Darlene Whitfield Olive's Agency Subordinate Recommendation. Additionally, Ms. Hershkowitz moved that Ms. Douglas, Dr. Hills, 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 Dr. Ransone. A roll call was taken and the motion carried unanimously.

RECONVENTION: The Board reconvened in open session at 1:08 P.M.

Ms. Hershkowitz moved that the Committee of the Joint Boards of Nursing and Medicine 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 Dr. Archer. A roll call was taken and the motion carried unanimously.

ACTION: Dr. Gleason moved to modify the recommended decision of the agency subordinate to reprimand Darlene Whitfield Olive and to require Ms.

Olive, within 90 days from the date of entry of the Order, to provide written proof satisfactory to the Committee of the Joint Boards of Nursing and Medicine of successful completion of the following NCSBN courses: *Professional Boundaries in Nursing* and *Righting a Wrong: Ethics and Professionalism in Nursing.* The motion was properly seconded by Ms. Hershkowitz. A roll call was taken and the motion carried unanimously.

ADJOURNMENT: As there was no additional business, the meeting was adjourned at 1:11 P.M.

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Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director

Virginia Nurse Practitioner Side-by-Side Comparison

	NP	CRNA	CNM	CNS
Joint licensure by BON & BOM *§ 54.1-2900*	Yes	Yes	Yes	Yes
Collaboration/ Consultation/ Supervision requirement *§ 54.1-2957(C), (H), (J)*	Collaboration and consultation with at least one licensed patient care team physician unless the practitioner has been granted an autonomous practice designation.	Under supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry.	Consultation with a certified nurse midwife who has practiced for at least two years **or** a licensed physician until CNM has practiced for 1,000 hours.	Consultation with licensed physician
Practice Agreement § 54.1-2957(C), (H), (J)	Yes, if no autonomous practice designation	No	Yes, prior to completion of 1,000 hours and receipt of attestation of completion from CNM or physician	Yes
Practice Agreement Criteria *§ 54.1-2957(D), (H), (J)* *§ 54.1-2957.01(G)*	-Shall include provisions for periodic review of health records -input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. See Virginia Code § 54.1-2957 for specifics. See also Guidance Document 90-56.	N/A	--Shall address the availability of the consulting CNM or the licensed physician for routine and urgent consultation on patient care --prescribing shall also be in accordance with any prescriptive authority included in a such practice agreement	--Shall address the availability of the physician for routine and urgent consultation on patient care. --Medications if prescribing Schedule II-V
Autonomous Practice *§ 54.1-2957(C), (H)*	Yes, if granted autonomous practice designation	No	Yes, if CNM receives attestation from CNM or physician at completion of 1,000 hours	No
Rx authority *§ 54.1-295701(A)*	Schedule II – VI	Schedule II – VI*	Schedule II – VI	Schedule II – VI**

* May prescribe to a patient requiring anesthesia, as part of the periprocedural care of such patient. "Periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged (§ 54.1-2957.01(H))

** CNSs may be granted prescriptive authority upon submission of evidence of qualification (HB1747 Enactment Clause #3)

EMAIL TO: [All CNSs on May 27, 2021]

Subject: IMPORTANT MESSAGE from Jay Douglas, Executive Director of the Virginia Board of Nursing, on behalf of the Joint Boards of Nursing and Medicine, Virginia Department of Health Professions

HB1747 Clinical Nurse Specialists (CNSs) Jointly licensed by Boards of Nursing and Medicine as Nurse Practitioners (LNPs)

On March 18, 2021, Governor Northam signed into law HB 1747 which repeals § 54.1-3018.1 and amends §§ 54.1-2900, 54.1-2901, 54.1-2957, 54.1-2957.01 of the Virginia Code affecting the licensure and practice of CNSs as follows:

1) CNSs as Licensed Nurse Practitioners (LNPs):
    a. On July 1, 2021, CNSs currently registered by the Board of Nursing and who have completed an advanced graduate-level education CNS program will be jointly licensed by the Boards of Nursing and Medicine to practice as a nurse practitioner without prescriptive authority (RX Authority).
    b. All eligible current active Clinical Nurse Specialists registered by the Board of Nursing will be issued a new Nurse Practitioner license in the category of clinical nurse specialist (#0024) which may be verified through License Lookup.

2) Practice Agreement Requirement
    a. On July 1, 2021, all CNSs (whether they have prescriptive authority or not – see #3 below) will be required to practice in consultation with a licensed physician in accordance with a practice agreement between the CNS and the licensed physician.
    b. The practice agreement must address the availability of the physician for routine and urgent consultation on patient care as well as Schedule II-V drugs, if applicable.
    c. The practice agreement will be maintained by the CNS and only provided to the Boards upon request.

3) CNS Prescriptive Authority
    a. A CNS may be granted RX Authority upon submission of satisfactory evidence of qualification as set forth in regulations of the Boards of Medicine and Nursing.
    b. CNSs may prescribe
        i. Schedules II through V controlled substances in accordance with any prescriptive authority included in a practice agreement

ii. Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.

c. Submissions of evidence qualifying a CNS for RX Authority will be accepted on or after July 1st and thereafter using the following procedure:
   i. To add RX Authority to your new Nurse Practitioner license, submit a completed paper application along with the $35 application fee to the Board of Nursing after July 1, 2021. Click here for the Nurse Practitioner Application Instruction Checklist (see page 2) for the requirements to add RX Authority to your new Nurse Practitioner license, which is also posted on the Board of Nursing webpage.
   ii. The qualifications for initial approval of prescriptive authority are found in 18VAC90-40-40 of the Regulations for Prescriptive Authority for Nurse Practitioners
   iii. Once an RX Authority application is approved, RX Authority will be clearly designated as a 'specialization' on your LNP record and in License Lookup.

EMAIL TO: [All CNMs on June 24, 2021]

Subject: IMPORTANT MESSAGE from Jay Douglas, Executive Director of the Virginia Board of Nursing, on behalf of the Joint Boards of Nursing and Medicine, Virginia Department of Health Professions

HB1817 Amended Statutes for Certified Nurse Midwife (CNM) Practice and Licensure

On March 25, 2021, Governor Northam signed into law HB1817 which amends §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Virginia Code affecting the practice of CNMs. Modifications to CNM practice requirements effective July 1, 2021 are as follows:

I. Prescriptive Authority - § 54.1-2957.01(G)

- All CNMs with prescriptive authority may prescribe Schedule II through VI controlled substances.

II. Practice Agreement Requirements - § 54.1-2957(H)

CNMs with fewer than 1,000 practice hours must enter into a practice agreement with ***EITHER*** a licensed physician or a CNM with more than 2 years of clinical practice experience.

- The practice agreement needs to
  - address the availability of the consulting CNM or physician for routine and urgent consultation on patient care, and
  - include prescribing of Schedule II through VI controlled substances
- The practice agreement must be maintained by the CNM and provided to the Boards ***only*** upon request

III. Practicing without a Practice Agreement - § 54.1-2957(H)

1. Upon completion of 1,000 hours of practice, the CNM may practice without a practice agreement upon receipt by the CNM of an attestation from the consulting CNM or physician stating:
   - that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this section and
   - the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement.
   - Statute does not require submission of this attestation to the Joint Boards.

2. Enactment Clause (end of HB1817)

That any certified nurse midwife who has practiced as a certified nurse midwife in the Commonwealth for at least 1,000 hours, as determined by the Boards of Medicine and Nursing, prior to the effective date of this act shall be deemed to have met the requirements of subsection H of § 54.1-2957 of the Code of Virginia, as amended by this act, related to requirements for practice as a certified nurse midwife without a practice agreement and shall be eligible to practice as a certified nurse midwife in the Commonwealth without a practice agreement.

- CNMs who have practiced for at least 1,000 hours as of July 1, 2021 will be deemed to have met the requirements *as determined by the Boards* and may practice without a practice agreement
- The Joint Boards will rely on documentation submitted by the CNM in order to deem that the CNM has met the practice requirements prior to July 1, 2021, as outlined in the enactment clause. Examples of such documentation includes, but is not limited to, the following:
    1. Written statement from consulting physician
    2. Written statement from the Human Resources department or employer
    3. Official records from employment, military service, Medicaid/Medicare reimbursement
    4. Practice Agreement(s)

The Joint Boards is currently accepting documentation using the following procedure:

1. CNM submits scanned pdf documentation in an email to nursebd@dhp.virginia.gov
   IMPORTANT: Subject Line for email: "**CNM – Documentation Submission**"
2. Joint Boards documentation review conducted
3. If CNM is deemed to have met the requirements of the enactment clause, a notification will be emailed or mailed to the CNM at the address of record

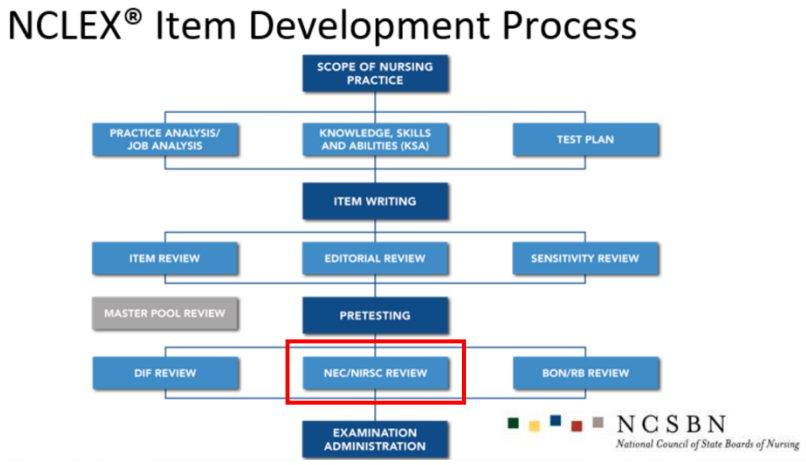
Report from NCLEX Item Review Subcommittee (NIRSC)

Virtual Meeting
July 14-16, 2021
Submitted to Virginia Board of Nursing by Brandon Jones

It was a privilege to serve as part of the NCLEX Item Review Subcommittee (NIRSC) for the July 2021 meeting. While much of the work of the NIRSC is confidential, I am reporting those aspects of the meeting I can.

Background

The NIRSC is a subcommittee of the NCLEX Examination Committee (NEC). The charge of the NIRSC is to assist the NEC with item review examining items to ensure they are accurate, current, and comply with nurse practice acts. This rigorous review is part of NCSBN's assurance of a psychometrically sound and legally defensible exam. Below is a graphic displaying how the work of the NIRSC fits into the NCLEX Item Development Process:



July NIRSC Meeting Summary

Nine Board of Nursing representatives from different regions throughout the country comprised the July NIRSC team, with three NEC members acting as chairs for the meeting and two fantastic NCSBN staff

members supporting us. This group also represented diverse clinical experiences and backgrounds that enhanced the review process. After three days of work, over 1500 questions were reviewed by this group.

I am thankful for the opportunity to serve for the first time on the NIRSC and look forward to serving again in September 2021. In addition to accomplishing our primary objective of reviewing NCLEX items, this meeting was an opportunity to learn more about the NCLEX item development process, network and interact with other nurse regulators across the country, and contribute to the continued excellence in the nursing profession.

Respectfully submitted,
Brandon Jones, MSN, RN, CEN, NEA-BC

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367-4400
FAX (804) 527-4475

Virginia Board of Nursing
Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director

Board of Nursing (804) 367-4515
www.dhp.virginia.gov/Boards/nursing

Memo

To: Board Members

From: Jay P. Douglas, MSM, RN, CSAC, FRE

Date: July 19, 2021

Re: Dates for 2022 Board Meetings and Formal Hearings

The following dates are for the 2022 Board Meetings and Formal Hearings:

January 24 – 27, 2022

March 21 – 24, 2022

May 16 – 19, 2022

July 18 – 21, 2022

September 12 – 15, 2022

November 14 – 17, 2022

Summary of Recommendations to the 2021 Delegate Assembly

Board of Directors Recommendations:

1. Adopt the proposed revisions to the NCSBN Model Practice Act & Rules.

   Rationale:
   The proposed revisions to the Model Act and Rules are recommended by the Model Act and Rules Committee. These changes are sought to update and streamline content and ensure whatever possible that actions are based on sound evidence.

   Fiscal Impact:
   None

NCLEX® Examination Committee Recommendation:

1. Approve the Next Generation NCLEX® (NGN) test design and polytomous scoring methods.

   Rationale:
   The NEC reviewed and accepted the Next Generation NCLEX® (NGN) test design for incorporating clinical judgment items and case studies along with the new polytomous scoring methods to be approved by the Delegate Assembly.

   Fiscal Impact:
   Incorporated into the FY22 budget.

Leadership Succession Committee (LSC) Recommendations:

1. Present the 2021 Slate of Candidates.

   Rationale:
   The Leadership Succession Committee has prepared the 2021 Slate of Candidates with due regard for the qualifications required by the positions open for election, fairness to all candidates, and attention to the goals and purpose of NCSBN. Full biographical information and application responses for each candidate are posted in the Business Book under the Report of the Leadership Succession Committee.

   Fiscal Impact:
   Incorporated into the FY22 budget.

References:

A. Proposed NCSBN Model Practice Act
B. Proposed NCSBN Model Rules
C. NGN Test Design
D. Midyear Meeting NGN Forum
E. 2021 Slate of Candidates

Agenda Item: Regulatory Actions - Chart of Regulatory Actions
As of July 6, 2021

Chapter		Action / Stage Information
[18 VAC 90 - 19]	Regulations Governing the Practice of Nursing	Unprofessional conduct - conversion therapy [Action 5430] Final - *At Secretary's Office for 15 days*
[18 VAC 90 - 27]	Regulations Governing Nursing Education Programs	Use of simulation [Action 5402] Final - *At Secretary's Office for 15 days*
[18 VAC 90 - 30]	Regulations Governing the Licensure of Nurse Practitioners	Unprofessional conduct/conversion therapy [Action 5441] Proposed - *Register Date: 2/15/21* [Stage 9120]
[18 VAC 90 - 40]	Regulations for Prescriptive Authority for Nurse Practitioners	Waiver for electronic prescribing [Action 5413] Proposed - *Register Date: 5/10/21* [Stage 9038]

Department of Health Professions
Regulatory/Policy Actions – 2021 General Assembly

Nursing

EXEMPT REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1737	Revise autonomous practice reg consistent with 2 years	Nursing & Medicine	N – 7/20/21 M – 8/6/21	
HB1747	Licensure of CNS as nurse practitioners – Amend Chapters 30 and 40 Delete sections of Chapter 20 with reference to registration of CNS	Nursing & Medicine	N – 7/20/21 M – 8/6/21	
HB1817	Autonomous practice for CNMs with 1,000 hours	Nursing & Medicine	N – 7/20/21 M – 8/6/21	

APA REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1953	Licensure of certified midwives	Nursing & Medicine	NOIRA Nursing – 7/20/21 Medicine – 8/6/21	Unknown

NON-REGULATORY ACTIONS

Legislative source	Affected agency	Action needed	Due date
HB1747	Nursing	Notification to registered certified nurse specialists that they must have a practice agreement with a physician before licensure as a nurse practitioner as of July 1, 2021	After March 31, 2021
HB793 (2018)	Medicine & Nursing	To report data on the number of nurse practitioners who have been authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement	November 1, 2021

Budget bill	Department	To study and make recommendations regarding the oversight and regulation of advanced practice registered nurses (APRNs). The department shall review recommendations of the National Council of State Boards of Nursing, analyze the oversight and regulations governing the practice of APRNs in other states, and review research on the impact of statutes and regulations on practice and patient outcomes.	November 1, 2021
HB1953	Department	To convene a work group to study and report on the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals.	November 1, 2021
HB1987	Boards with prescriptive authority	Revise guidance documents with references to 54.1-3303	As boards meet after July 1

Future Policy Actions:

HB2559 (2019) - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by **November 1, 2022**.

Agenda Item:

Regulatory Actions – Adoption of Exempt Regulations pursuant to 2021 legislation

Included in agenda package:

Copy of **HB1737** – Practice of NPs without practice agreement (reduction of years in clinical practice from 5 to 2 years for autonomous practice)

Copy of **HB1747** – Practice of CNSs as nurse practitioners (elimination of registration of clinical nurse specialists under Board of Nursing and initiation of licensure under the Joint Boards; requirement for a practice agreement; prescriptive authority for CNSs who qualify)

Copy of **HB1817** – Practice of CNMs without practice agreement (1,000 hours of clinical practice under a practice agreement with a patient care team physician OR another certified nurse midwife with at least two years of experience required for autonomous practice

Draft regulations for Licensure of Nurse Practitioners (**Chapter 30**) and Prescriptive Authority for Nurse Practitioners (**Chapter 40**)

Draft regulatory action for repeal of 18VAC90-19-210 and 18VAC90-19-220 in Nursing regulations (registration of clinical nurse specialists)

Staff note:

The amendments may be adopted as an exempt action because they have been reviewed by the Assistant Attorneys General and determined to conform regulations to changes in the Code. The draft regulations were reviewed by the Committee of the Joint Boards at its June meeting and recommended for adoption.

Action by Board of Nursing: To adopt changes to Chapters 19 (Nursing) 30 (Nurse Practitioners) and 40 (Prescriptive Authority for NPs) to conform to changes in the Code of Virginia

The Board of Medicine will need to adopt changes to Chapters 30 & 40 in August.

CHAPTER 1

An Act to amend and reenact § 54.1-2957 of the Code of Virginia, relating to nurse practitioners; practice without a practice agreement.

[H 1737]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2957 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2957. Licensure and practice of nurse practitioners.

A. As used in this section:

"Clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse ~~anesthetists~~ *anesthetist* shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the

Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least ~~five~~ *two* years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has completed the equivalent of at least ~~five~~ *two* years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

2. That the provisions of this act shall expire on July 1, 2022.

CHAPTER 157

An Act to amend and reenact §§ 54.1-2900, 54.1-2901, 54.1-2957, 54.1-2957.01, and 54.1-3000 of the Code of Virginia and to repeal § 54.1-3018.1 of the Code of Virginia, relating to clinical nurse specialist; licensure by the Boards of Medicine and Nursing.

[H 1747]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2900, 54.1-2901, 54.1-2957, 54.1-2957.01, and 54.1-3000 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Clinical nurse specialist" means an advance practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01 ~~or~~*,* any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957*, or any nurse practitioner licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957* when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, a nurse practitioner, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed nurse practitioner, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed nurse practitioner, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

14. The practice of the religious tenets of any church in the ministration to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation;

15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally licensed practitioners in this Commonwealth;

16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia temporarily and such practitioner has been issued a temporary authorization by the Board from practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) while participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any site any health care services within the limits of his license, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106;

17. The performance of the duties of any active duty health care provider in active service in the army, navy, coast guard, marine corps, air force, or public health service of the United States at any public or private health care facility while such individual is so commissioned or serving and in accordance with his official military duties;

18. Any masseur, who publicly represents himself as such, from performing services within the scope of his usual professional activities and in conformance with state law;

19. Any person from performing services in the lawful conduct of his particular profession or business under state law;

20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

21. Qualified emergency medical services personnel, when acting within the scope of their certification, and licensed health care practitioners, when acting within their scope of practice, from following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of Health regulations, or licensed health care practitioners from following any other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

22. Any commissioned or contract medical officer of the army, navy, coast guard or air force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent certifying body, from administering auricular acupuncture treatment under the appropriate supervision of a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation (CPR) acting in compliance with the patient's individualized service plan and with the written order of the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

25. Any person working as a health assistant under the direction of a licensed medical or osteopathic doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional facilities;

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administrating glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks; or

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

§ 54.1-2957. Licensure and practice of nurse practitioners.

A. As used in this section~~:~~

~~"Clinical~~*, "clinical* experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife ~~or a~~*,* certified registered nurse anesthetist*, or clinical nurse specialist* or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. *A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a clinical nurse specialist shall practice pursuant to subsection J.* A nurse practitioner who is a certified registered nurse ~~anesthetists~~ *anesthetist* shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of,

and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife ~~or~~*,* certified registered nurse anesthetist*, or clinical nurse specialist*, who has completed the equivalent of at least five years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

J. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. A nurse practitioner who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the nurse practitioner and a patient care team physician. Such nurse practitioner shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician or shall clearly state the name of the patient care team physician who has entered into the practice agreement with the nurse practitioner.

It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician and information regarding how to contact the patient care team physician.

2. Physicians shall not serve as a patient care team physician on a patient care team at any one time to more than six nurse practitioners.

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife *or clinical nurse specialist* and holding a license for prescriptive authority may prescribe (i) Schedules II through V controlled substances in accordance with any prescriptive authority included in a practice agreement with a licensed physician pursuant to subsection H *or J* of § 54.1-2957 and (ii) Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.

H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged.

§ 54.1-3000. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advanced practice registered nurse" means a registered nurse who has completed an advanced graduate-level education program in a specialty category of nursing and has passed a national certifying examination for that specialty.

"Board" means the Board of Nursing.

"Certified nurse aide" means a person who meets the qualifications specified in this article and who is currently certified by the Board.

~~"Clinical nurse specialist" means an advanced practice registered nurse who meets the requirements set forth in § 54.1-3018.1 and who is currently registered by the Board. Such a person shall be recognized as being able to provide advanced services according to the specialized training received from a program satisfactory to the Board, but shall not be entitled to perform any act that is not within the scope of practice of professional nursing.~~

"Massage therapist" means a person who meets the qualifications specified in this chapter and who is currently licensed by the Board.

"Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The term "massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, midwifery, chiropractic, physical therapy, occupational therapy, acupuncture, athletic training, or podiatry is required by law or any service described in subdivision A 18 of § 54.1-3001.

"Massage therapy" shall not include manipulation of the spine or joints.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice practical nursing as defined in this section. Such a licensee shall be empowered to provide nursing services without compensation. The abbreviation "L.P.N." shall stand for such terms.

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

2. That § 54.1-3018.1 of the Code of Virginia is repealed.

3. That the Boards of Medicine and Nursing shall jointly issue a license to practice as a nurse practitioner without prescriptive authority in the category of clinical nurse specialist to an applicant who is an advance practice registered nurse who has completed an advanced graduate-level education program in the specialty category of clinical nurse specialist and who is registered by the Board of Nursing as a clinical nurse specialist on July 1, 2021. A clinical nurse specialist may be granted prescriptive authority upon submission of satisfactory evidence of qualification as set forth in regulations of the Boards of Medicine and Nursing.

CHAPTER 396

An Act to amend and reenact §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Code of Virginia, relating to practice of certified nurse midwives.

[H 1817]
Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2957, 54.1-2957.01, and 54.1-2957.03 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2957. Licensure and practice of nurse practitioners.

A. As used in this section~~:~~*,*

~~"Clinical~~ *"clinical* experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a ~~nurse practitioner licensed by the Boards of Medicine and Nursing as a~~ certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A ~~nurse practitioner who is licensed by the Boards of Medicine and Nursing as a~~ certified nurse midwife shall practice pursuant to subsection H. A ~~nurse practitioner who is a~~ certified registered nurse ~~anesthetists~~ *anesthetist* shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. ~~Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of~~ *Every* certified nurse midwife shall practice in ~~consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate~~ *accordance with* regulations~~,~~ *adopted by the Boards and* consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives~~,~~ governing such practice. *A certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or a licensed physician, in accordance with a practice agreement. Such practice agreement shall address the availability of the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician for routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.*

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has completed the equivalent of at least five years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to

obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed nurse practitioners.

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed nurse practitioner shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. A nurse practitioner who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the nurse practitioner and a patient care team physician. Such nurse practitioner shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the nurse practitioner has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician that clearly states the prescriptive practices of the nurse practitioner. Such written or electronic practice agreements shall include the controlled substances the nurse practitioner is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a nurse practitioner pursuant to § 54.1-2957. Practice agreements authorizing a nurse practitioner to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician or shall clearly state the name of the patient care team physician who has entered into the practice agreement with the nurse practitioner.

It shall be unlawful for a nurse practitioner to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or electronic practice agreement or (ii) the nurse practitioner is authorized to practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients. Such regulations shall include requirements as may be necessary to ensure continued nurse practitioner competency, which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

D. This section shall not limit the functions and procedures of certified registered nurse anesthetists or of any nurse practitioners which are otherwise authorized by law or regulation.

E. The following restrictions shall apply to any nurse practitioner authorized to prescribe drugs and devices pursuant to this section:

1. The nurse practitioner shall disclose to the patient at the initial encounter that he is a licensed nurse practitioner. Any party to a practice agreement shall disclose, upon request of a patient or his legal representative, the name of the patient care team physician and information regarding how to contact the patient care team physician.

2. Physicians shall not serve as a patient care team physician on a patient care team at any one time to more than six nurse practitioners.

F. This section shall not prohibit a licensed nurse practitioner from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

G. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe ~~(i)~~ Schedules II through ~~V~~ *VI* controlled substances. *However, if the nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife is required, pursuant to subsection H of § 54.1-2957, to practice pursuant to a practice agreement, such prescribing shall also be* in accordance with any prescriptive authority included in ~~a~~ *such* practice agreement ~~with a licensed physician pursuant to subsection H of § 54.1-2957 and (ii) Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement~~.

H. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified registered nurse anesthetist shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices in accordance with the requirements for practice set forth in subsection C of § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the time the patient is discharged.

§ 54.1-2957.03. Certified nurse midwives; required disclosures; liability.

A. As used in this section, "birthing center" means a facility outside a hospital that provides maternity services.

B. A certified nurse midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

C. ~~The~~ *A* certified nurse midwife who ~~provided~~ *provides* health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) *physician assistant, (iii)* nurse *practitioner*, ~~(iii)~~ *(iv)* prehospital emergency medical personnel, or ~~(iv)~~ *(v)* hospital as defined in § 32.1-123, or ~~agents thereof, who~~ *any employee of, person providing services pursuant to a contract with, or agent of such hospital, that* provides screening and stabilization health care services to a patient as a result of a certified nurse midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from liability for acts or omissions constituting ordinary negligence.

2. That any certified nurse midwife who has practiced as a certified nurse midwife in the Commonwealth for at least 1,000 hours, as determined by the Boards of Medicine and Nursing, prior to the effective date of this act shall be deemed to have met the requirements of subsection H of § 54.1-2957 of the Code of Virginia, as amended by this act, related to requirements for practice as a certified nurse midwife without a practice agreement and shall be eligible to practice as a certified nurse midwife in the Commonwealth without a practice agreement.

REGULATIONS

GOVERNING THE LICENSURE OF NURSE PRACTITIONERS

VIRGINIA BOARD OF NURSING
VIRGINIA BOARD OF MEDICINE

Title of Regulations: 18 VAC 90-30-10 et seq.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the *Code of Virginia*

Revised Date:

9960 Mayland Drive, Suite 300
Richmond, VA 23233-1463

(804) 367-4515 (TEL)
(804) 527-4455 (FAX)
email: nursebd@dhp.virginia.gov

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PART I. GENERAL PROVISIONS.

18VAC90-30-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Approved program" means a nurse practitioner education program that is accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, Commission on Collegiate Nursing Education, or the National League for Nursing Accrediting Commission or is offered by a school of nursing or jointly offered by a school of medicine and a school of nursing that grant a graduate degree in nursing and that hold a national accreditation acceptable to the boards.

"Autonomous practice" means practice in a category in which a nurse practitioner is certified and licensed without a written or electronic practice agreement with a patient care team physician in accordance with 18VAC90-30-86.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957 of the Code of Virginia.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957 of the Code of Virginia, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

“Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Consultation" means the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem solving, and arranging for referrals, testing, or studies.

"Licensed nurse practitioner" means an advanced practice registered nurse who has met the requirements for licensure as stated in Part II (18VAC90-30-60 et seq.) of this chapter.

"National certifying body" means a national organization that is accredited by an accrediting agency recognized by the U.S. Department of Education or deemed acceptable by the National Council of State Boards of Nursing and has as one of its purposes the certification of nurse anesthetists, nurse midwives, clinical nurse specialists, or nurse practitioners, referred to in this chapter as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Patient care team physician" means a person who holds an active, unrestricted license issued by the Virginia Board of Medicine to practice medicine or osteopathic medicine.

"Practice agreement" means a written or electronic statement, jointly developed by the collaborating patient care team physician and the licensed nurse practitioner that describes the procedures to be followed and the acts appropriate to the specialty practice area to be performed by the licensed nurse practitioner in the care and management of patients. The practice agreement also describes the prescriptive authority of the nurse practitioner, if applicable. For a nurse practitioner licensed in the category of certified nurse midwife, the practice agreement is a statement jointly developed with the consulting physician or a certified nurse midwife with at least two years of clinical experience. For a nurse practitioner licensed in the category of clinical nurse specialist, the practice agreement shall be between the nurse practitioner and a consulting physician.

18VAC90-30-70. Categories of licensed nurse practitioners.

A. The boards shall license nurse practitioners consistent with their specialty education and certification in the following categories (a two-digit suffix appears on licenses to designate category):

1. Adult/geriatric acute care nurse practitioner (01);
2. Family nurse practitioner (02);
3. Pediatric/primary care nurse practitioner (03);
4. Adult/geriatric primary care nurse practitioner (07);
5. Certified registered nurse anesthetist (08);
6. Certified nurse midwife (09);
7. Neonatal nurse practitioner (13);
8. Women's health nurse practitioner (14);
9. Psychiatric nurse/mental health practitioner (17); ~~and~~
10. Pediatric/acute care nurse practitioner (18); and
11. Clinical nurse specialist (19).

B. Other categories of licensed nurse practitioners shall be licensed if the Committee of the Joint Boards of Nursing and Medicine determines that the category meets the requirements of this chapter.

C. Nurse practitioners licensed prior to January 15, 2016, may:

1. Retain the specialty category in which they were initially licensed; or

2. If the specialty category has been subsequently deleted and if qualified by certification, be issued a license in a specialty category listed in subsection A of this section that is consistent with such certification.

18VAC90-30-86. Autonomous practice for nurse practitioners other than certified nurse midwives, ~~or~~ certified registered nurse anesthetists, or clinical nurse specialists.

A. A nurse practitioner with a current, unrestricted license, other than someone licensed in the category of certified nurse midwife, ~~or~~ certified registered nurse anesthetist, or clinical nurse specialist, may qualify for autonomous practice by completion of the equivalent of ~~five~~ two years of full-time clinical experience as a nurse practitioner until July 1, 2022. Thereafter, the requirement shall be the equivalent of five years of full-time clinical experience to qualify for autonomous practice.

1. ~~Five years of full-time~~ Full-time clinical experience shall be defined as 1,800 hours per year ~~for a total of 9,000 hours~~.

2. Clinical experience shall be defined as the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. Qualification for authorization for autonomous practice shall be determined upon submission of a fee as specified in 18VAC90-30-50 and an attestation acceptable to the boards. The attestation shall be signed by the nurse practitioner and the nurse practitioner's patient care team physician stating that:

1. The patient care team physician served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this chapter and §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia;

2. While a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category, as specified in 18VAC90-30-70, for which the nurse practitioner was certified and licensed; and

3. The period of time and hours of practice during which the patient care team physician practiced with the nurse practitioner under such a practice agreement.

C. The nurse practitioner may submit attestations from more than one patient care team physician with whom the nurse practitioner practiced during the equivalent of five years of practice, but all attestations shall be submitted to the boards at the same time.

D. If a nurse practitioner is licensed and certified in more than one category as specified in 18VAC90-30-70, a separate fee and attestation that meets the requirements of subsection B of this section shall be submitted for each category. If the hours of practice are applicable to the patient population and in practice areas included within each of the categories of licensure and certification, those hours may be counted toward a second attestation.

E. In the event a patient care team physician has died, become disabled, retired, or relocated to another state, or in the event of any other circumstance that inhibits the ability of the nurse practitioner from obtaining an attestation as specified in subsection B of this section, the nurse practitioner may submit other evidence of meeting the qualifications for autonomous practice along with an attestation signed by the nurse practitioner. Other evidence may include employment

records, military service, Medicare or Medicaid reimbursement records, or other similar records that verify full-time clinical practice in the role of a nurse practitioner in the category for which the nurse practitioner is licensed and certified. The burden shall be on the nurse practitioner to provide sufficient evidence to support the nurse practitioner's inability to obtain an attestation from a patient care team physician.

F. A nurse practitioner to whom a license is issued by endorsement may engage in autonomous practice if such application includes an attestation acceptable to the boards that the nurse practitioner has completed the equivalent of five years of full-time clinical experience as specified in subsection A of this section and in accordance with the laws of the state in which the nurse practitioner was previously licensed.

G. A nurse practitioner authorized to practice autonomously shall:

1. Only practice within the scope of the nurse practitioner's clinical and professional training and limits of the nurse practitioner's knowledge and experience and consistent with the applicable standards of care;

2. Consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided; and

3. Establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

18VAC90-30-87. Autonomous practice for nurse practitioners licensed as certified nurse midwives.

A. A certified nurse midwife who has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice agreement upon receipt by the certified nurse midwife of an attestation from a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement or the licensed physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that such certified nurse midwife or licensed physician has provided consultation to the certified nurse midwife pursuant to a practice agreement meeting the requirements of § 54.1-2957 H of the Code of Virginia, and (ii) the period of time for which such certified nurse midwife or licensed physician practiced in collaboration and consultation with the certified nurse midwife pursuant to the practice agreement.

B. A certified nurse midwife authorized to practice without a practice agreement shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

PART III. PRACTICE OF LICENSED NURSE PRACTITIONERS.

18VAC90-30-120. Practice of licensed nurse practitioners other than certified registered nurse anesthetists, ~~or~~ certified nurse midwives, or clinical nurse specialists.

A. A nurse practitioner licensed in a category other than certified registered nurse anesthetist, ~~or~~ certified nurse midwife, or clinical nurse specialist shall be authorized to render care in collaboration and consultation with a licensed patient care team physician as part of a patient care

team or if determined by the boards to qualify in accordance with 18VAC90-30-86, authorized to practice autonomously without a practice agreement with a patient care team physician.

B. The practice shall be based on specialty education preparation as an advanced practice registered nurse in accordance with standards of the applicable certifying organization, as identified in 18VAC90-30-90.

C. All nurse practitioners licensed in any category other than certified registered nurse anesthetist, ~~or~~ certified nurse midwife, or clinical nurse specialist shall practice in accordance with a written or electronic practice agreement as defined in 18VAC90-30-10 or in accordance with 18VAC90-30-86.

D. The written or electronic practice agreement shall include provisions for:

1. The periodic review of patient charts or electronic patient records by a patient care team physician and may include provisions for visits to the site where health care is delivered in the manner and at the frequency determined by the patient care team;

2. Appropriate physician input in complex clinical cases and patient emergencies and for referrals; and

3. The nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits, and endorsements provided it is:

a. In accordance with the specialty license of the nurse practitioner and within the scope of practice of the patient care team physician;

b. Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and

c. Not in conflict with federal law or regulation.

E. The practice agreement shall be maintained by the nurse practitioner and provided to the boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities; however, the nurse practitioner shall be responsible for providing a copy to the boards upon request.

18VAC90-30-123. Practice of nurse practitioners licensed as certified nurse midwives.

A. A nurse practitioner licensed in the category of certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the physician or with a certified nurse midwife who has practiced for at least two years prior to entering into the practice agreement. Such practice agreement shall address the availability of the physician or the certified nurse midwife for routine and urgent consultation on patient care**.**

B. The practice agreement shall be maintained by the nurse midwife and provided to the boards upon request. For nurse midwives providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse midwife's clinical privileges or the electronic or written delineation of duties and responsibilities; however, the nurse midwife shall be responsible for providing a copy to the boards upon request.

C. A nurse practitioner licensed in the category of a certified nurse midwife shall practice in accordance with the Standards for the Practice of Midwifery (Revised 2011) defined by the American College of Nurse-Midwives.

18VAC90-30-123.1. Practice of nurse practitioners licensed as clinical nurse specialists.

A. Nurse practitioners licensed in the category of clinical nurse specialist shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician.

B. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the boards upon request.

C. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

Commonwealth of Virginia

REGULATIONS
FOR
PRESCRIPTIVE AUTHORITY FOR NURSE PRACTITIONERS

VIRGINIA BOARD OF NURSING
VIRGINIA BOARD OF MEDICINE

Title of Regulations: 18 VAC 90-40-10 et seq.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the *Code of Virginia*

Revised Date:

9960 Mayland Drive, Suite 300
Henrico, VA 23233-1463

(804) 367-4515 (TEL)
(804) 527-4455 (FAX)
email: nursebd@dhp.virginia.gov

Part I. General Provisions.

18VAC90-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances containing an opioid may be prescribed for no more than three months.

"Boards" means the Virginia Board of Medicine and the Virginia Board of Nursing.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957 of the Code of Virginia.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances containing an opioid may be prescribed for a period greater than three months.

"Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"FDA" means the U.S. Food and Drug Administration.

"MME" means morphine milligram equivalent.

"Nonprofit health care clinics or programs" means a clinic organized in whole or in part for the delivery of health care services without charge or when a reasonable minimum fee is charged only to cover administrative costs.

"Nurse practitioner" means an advanced practice registered nurse who has met the requirements for licensure as a nurse practitioner as stated in 18VAC90-30.

"Practice agreement" means a written or electronic agreement jointly developed by the patient care team physician and the nurse practitioner for the practice of the nurse practitioner that also describes the prescriptive authority of the nurse practitioner, if applicable. For a nurse practitioner licensed in the category of certified nurse midwife, the practice agreement is a statement jointly developed with the consulting physician or a certified nurse midwife with at least two years of clinical experience. For a nurse practitioner licensed in the category of clinical nurse specialist, the practice agreement shall be between the nurse practitioner and a consulting physician.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

"SAMHSA" means the federal Substance Abuse and Mental Health Services Administration.

18VAC90-40-90. Practice agreement.

A. With the exceptions listed in subsection E of this section, a nurse practitioner with prescriptive authority may prescribe only within the scope of the written or electronic practice agreement with a patient care team physician.

B. At any time there are changes in the patient care team physician, authorization to prescribe, or scope of practice, the nurse practitioner shall revise the practice agreement and maintain the revised agreement.

C. The practice agreement shall contain the following:

1. A description of the prescriptive authority of the nurse practitioner within the scope allowed by law and the practice of the nurse practitioner.

2. An authorization for categories of drugs and devices within the requirements of § 54.1-2957.01 of the Code of Virginia.

3. The signature of the patient care team physician who is practicing with the nurse practitioner or a clear statement of the name of the patient care team physician who has entered into the practice agreement.

D. In accordance with § 54.1-2957.01 of the Code of Virginia, a physician shall not serve as a patient care team physician to more than six nurse practitioners with prescriptive authority at any one time.

E. Exceptions.

1. A nurse practitioner licensed in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe in accordance with a written or electronic practice agreement with a consulting physician ~~or may prescribe Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement~~ or with a certified nurse midwife who has practiced for at least two years prior to entering into a practice agreement. A nurse practitioner in the category of certified nurse midwife who has qualified for autonomous practice as set forth in 18VAC90-30-87 may prescribe without a practice agreement.

2. A nurse practitioner licensed in the category of a clinical nurse specialist and holding authorization for prescriptive authority may prescribe in accordance with a written or electronic practice agreement with a consulting physician or may prescribe Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.

~~2.~~ 3. A nurse practitioner who is licensed in a category other than certified nurse midwife, ~~or~~ certified registered nurse anesthetist, or clinical nurse specialist, and who has met the qualifications for autonomous practice as set forth in 18VAC90-30-86 may prescribe without a practice agreement with a patient care team physician.

Part IV. Clinical Nurse Specialists

18VAC90-19-210. Clinical nurse specialist registration. (Repealed.)

A. Initial registration. An applicant for initial registration as a clinical nurse specialist shall:

1. Be currently licensed as a registered nurse in Virginia or hold a current multistate licensure privilege as a registered nurse;

2. Submit evidence of current national clinical nurse specialist certification, including core certification or a certification that has been retired, as required by § 54.1-3018.1 of the Code of Virginia or have an exception available from March 1, 1990, to July 1, 1990; and

3. Submit the required application and fee.

B. Renewal of registration.

1. Registration as a clinical nurse specialist shall be renewed biennially at the same time the registered nurse license is renewed. If registered as a clinical nurse specialist with a multistate licensure privilege to practice in Virginia as a registered nurse, a licensee born in an even-numbered year shall renew his license by the last day of the birth month in even-numbered years and a licensee born in an odd-numbered year shall renew his license by the last day of the birth month in odd-numbered years.

2. The clinical nurse specialist shall complete the renewal form and submit it with the required fee. An attestation of current national certification as a clinical nurse specialist, including core certification or a certification that has been retired, is required unless registered in accordance with an exception.

3. Registration as a clinical nurse specialist shall lapse if the registered nurse license is not renewed or the multistate licensure privilege is lapsed or registration as a clinical nurse specialist is not renewed and may be reinstated within one renewal period upon:

a. Reinstatement of RN license or multistate licensure privilege, if lapsed;

b. Payment of current renewal fees and late renewal fees; and

c. Submission of evidence of continued national certification as a clinical nurse specialist, including core certification or a certification that has been retired, unless registered in accordance with an exception.

C. Reinstatement of registration.

~~1. A clinical nurse specialist whose registration has lapsed for more than one renewal period may be reinstated by submission of:~~

~~a. A reinstatement application and reinstatement fee;~~

~~b. Evidence of a current RN license or multistate privilege; and~~

~~c. Evidence of current national certification as a clinical nurse specialist, including core certification or a certification that has been retired, unless registered in accordance with an exception.~~

~~2. A clinical nurse specialist whose registration has been suspended or revoked by the board may apply for reinstatement by:~~

~~a. Filing a reinstatement application;~~

~~b. Fulfilling requirements specified in subdivision 1 c of this subsection; and~~

~~c. Paying the fee for reinstatement after suspension or revocation.~~

~~The board may request additional evidence that the clinical nurse specialist is prepared to resume practice in a competent manner. A clinical nurse specialist whose registration has been revoked may not apply for reinstatement sooner than three years from entry of the order of revocation.~~

18VAC90-19-220. ~~Clinical nurse specialist practice.~~ (Repealed.)

~~A. The practice of a clinical nurse specialist shall be consistent with the education and experience required for clinical nurse specialist certification.~~

~~B. The clinical nurse specialist shall provide those advanced nursing services that are consistent with the standards of specialist practice as established by a national certifying organization for clinical nurse specialists and in accordance with the provisions of Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.~~

~~C. Advanced practice as a clinical nurse specialist shall include performance as an expert clinician to:~~

~~1. Provide direct care and counsel to individuals and groups;~~

~~2. Plan, evaluate, and direct care given by others; and~~

~~3. Improve care by consultation, collaboration, teaching, and the conduct of research.~~

18VAC90-19-230. Disciplinary provisions.

~~A.~~ The board has the authority to deny, revoke, or suspend a license or multistate licensure privilege issued, or to otherwise discipline a licensee or holder of a multistate licensure privilege upon proof that the licensee or holder of a multistate licensure privilege has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit in procuring or maintaining a license means, but shall not be limited to:

a. Filing false credentials;

b. Falsely representing facts on an application for initial license, reinstatement, or renewal of a license; or

c. Giving or receiving assistance in the taking of the licensing examination.

2. Unprofessional conduct means, but shall not be limited to:

a. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;

b. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;

c. Obtaining supplies, equipment, or drugs for personal or other unauthorized use;

d. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;

e. Falsifying or otherwise altering patient, employer, student, or educational program records, including falsely representing facts on a job application or other employment-related documents;

f. Abusing, neglecting, or abandoning patients or clients;

~~g. Practice of a clinical nurse specialist beyond that defined in 18VAC90-19-220 and § 54.1-3000 of the Code of Virginia;~~

~~h. Representing oneself as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the board~~;

i. Delegating nursing tasks to an unlicensed person in violation of the provisions of Part VI (18VAC90-19-240 et seq.) of this chapter;

j. Giving to or accepting from a patient or client property or money for any reason other than fee for service or a nominal token of appreciation;

k. Obtaining money or property of a patient or client by fraud, misrepresentation, or duress;

l. Entering into a relationship with a patient or client that constitutes a professional boundary violation in which the nurse uses his professional position to take advantage of the vulnerability of a patient, a client, or his family, to include actions that result in personal gain at the expense of the patient or client, or a nontherapeutic personal involvement or sexual conduct with a patient or client;

m. Violating state laws relating to the privacy of patient information, including § 32.1-127.1:03 the Code of Virginia;

n. Providing false information to staff or board members in the course of an investigation or proceeding;

o. Failing to report evidence of child abuse or neglect as required in § 63.2-1509 of the Code of Virginia or elder abuse or neglect as required in § 63.2-1606 of the Code of Virginia; or

p. Violating any provision of this chapter.

~~B. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.~~

Part ~~V.~~ IV. Disciplinary and Delegation Provisions

Part ~~VI.~~ V. Delegation of Nursing Tasks and Procedures

Agenda Item: Adoption of proposed regulations for clinical nurse specialist registration as a fast-track action

Enclosed is:

Copy of proposed regulations

Staff note:

Certain changes to regulations are necessary for renewal of licenses for clinical nurse specialists (**HB1747**) but the changes are not conforming to the Code so they are not deemed to be exempt regulatory actions.

The Board of Medicine will need to adopt the changes in August.

Board action:

To adopt the amendments as proposed regulations by a fast-track action

Regulations Governing the Licensure of Nurse Practitioners

18VAC90-30-80. Qualifications for initial licensure.

A. An applicant for initial licensure as a nurse practitioner shall:

1. Hold a current, active license as a registered nurse in Virginia or hold a current multistate licensure privilege as a registered nurse;

2. Submit evidence of a graduate degree in nursing or in the appropriate nurse practitioner specialty from an educational program designed to prepare ~~nurse practitioners~~ advanced practice registered nurses that is an approved program as defined in 18VAC90-30-10. Evidence shall include a transcript that shows that the applicant has successfully completed core coursework that prepares the applicant for licensure in the appropriate specialty;

3. Submit evidence of professional certification that is consistent with the specialty area of the applicant's educational preparation issued by an agency accepted by the boards as identified in 18VAC90-30-90;

4. File the required application; and

5. Pay the application fee prescribed in 18VAC90-30-50.

B. Provisional licensure may be granted to an applicant who satisfies all requirements of this section with the exception of subdivision A 3 of this section, provided the board has received evidence of the applicant's eligibility to sit for the certifying examination directly from the national certifying body. An applicant may practice with a provisional license for either six months from the date of issuance or until issuance of a permanent license or until he receives notice that he has failed the certifying examination, whichever occurs first.

18VAC90-30-105. Continuing competency requirements.

A. In order to renew a license biennially, a nurse practitioner initially licensed on or after May 8, 2002, shall hold current professional certification in the area of specialty practice from one of the certifying agencies designated in 18VAC90-30-90, except for those licensed in accordance with subsection B of this section.

B. In order to renew a license biennially, nurse practitioners licensed prior to May 8, 2002 or clinical nurse specialists who were registered by the Board of Nursing with a retired certification, shall meet one of the following requirements:

1. Hold current professional certification in the area of specialty practice from one of the certifying agencies designated in 18VAC90-30-90; or

2. Complete at least 40 hours of continuing education in the area of specialty practice approved by one of the certifying agencies designated in 18VAC90-30-90 or approved by Accreditation Council for Continuing Medical Education (ACCME) of the American Medical Association as a Category I Continuing Medical Education (CME) course.

C. The nurse practitioner shall retain evidence of compliance and all supporting documentation for a period of four years following the renewal period for which the records apply.

D. The boards shall periodically conduct a random audit of their licensees to determine compliance. The nurse practitioners selected for the audit shall provide the evidence of compliance and supporting documentation within 30 days of receiving notification of the audit.

E. The boards may delegate the authority to grant an extension or exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

Regulations for Prescriptive Authority for Nurse Practitioners

18VAC90-40-40. Qualifications for initial approval of prescriptive authority.

An applicant for prescriptive authority shall meet the following requirements:

1. Hold a current, unrestricted license as a nurse practitioner in the Commonwealth of Virginia;

2. Provide evidence of one of the following:

a. Continued professional certification as required for initial licensure as a nurse practitioner;

b. Satisfactory completion of a graduate level course in pharmacology or pharmacotherapeutics obtained as part of the ~~nurse practitioner or~~ advanced practice registered nurse education program within the five years prior to submission of the application;

c. Practice as a nurse practitioner for no less than 1000 hours and 15 continuing education units related to the area of practice for each of the two years immediately prior to submission of the application; or

d. Thirty contact hours of education in pharmacology or pharmacotherapeutics acceptable to the boards taken within five years prior to submission of the application. The 30 contact hours may be obtained in a formal academic setting as a discrete offering or as noncredit continuing education offerings and shall include the following course content:

(1) Applicable federal and state laws;

(2) Prescription writing;

(3) Drug selection, dosage, and route;

(4) Drug interactions;

(5) Information resources; and

(6) Clinical application of pharmacology related to specific scope of practice.

3. Develop a practice agreement between the nurse practitioner and the patient care team physician as required in 18VAC90-40-90; and

4. File a completed application and pay the fees as required in 18VAC90-40-70.

Agenda Item: Board Action – Adoption of Notice of Intended Regulatory Action (NOIRA) – Licensed certified midwives

Included in your agenda package:

- Copy of HB1953

Staff note:

The NOIRA will identify the general requirements for licensure, renewal and practice of licensed certified midwives under the joint regulation of the Boards of Nursing and Medicine.

The Board of Medicine will need to adopt the NOIRA in August.

Board Action:

Motion to approve issuance of a Notice of Intended Regulatory Action to promulgate a new chapter in the Administrative Code for the licensure of certified midwives

CHAPTER 200

*An Act to amend and reenact §§ **54.1-2900**, **54.1-3005**, **54.1-3303**, and **54.1-3408** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **54.1-2957.04**, relating to licensed certified midwives; licensure; practice.*

[H 1953]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ **54.1-2900**, **54.1-3005**, **54.1-3303**, and **54.1-3408** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **54.1-2957.04** as follows:

§ **54.1-2900**. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Birth control" means contraceptive methods that are approved by the U.S. Food and Drug Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § **54.1-2957**.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § **54.1-2957**, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § **54.1-2957**.

"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of Medicine and Nursing.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § **54.1-2957**.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the

procedure of auricular acupuncture as exempted in § **54.1-2901** when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § **46.2-341.12** if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers as

may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and practice of midwifery.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § **54.1-2939**. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § **54.1-2939**. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Practice of surgical assisting" means the performance of significant surgical tasks, including manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic, harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ **54.1-2700** et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ **54.1-2700** et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

*§ **54.1-2957.04**. Licensure as a licensed certified midwife; practice as a licensed certified midwife; use of title; required disclosures.*

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license as such issued jointly by the Boards of Medicine and Nursing.

B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current certification as a certified

midwife by the American Midwifery Certification Board and that shall be consistent with the requirements for certification as a certified midwife established by the American Midwifery Certification Board.

C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a licensed certified midwife in the Commonwealth.

D. Licensed certified midwives shall practice in consultation with a licensed physician in accordance with a practice agreement between the licensed certified midwife and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by the licensed certified midwife and provided to the Board upon request. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing the practice of midwifery.

E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of Medicine and Nursing.

*F. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in § **54.1-2957.03**.*

*G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) nurse practitioner, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § **32.1-123**, or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a licensed certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune from liability for acts or omissions constituting ordinary negligence.*

§ **54.1-3005**. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § **54.1-3006.2** upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § **54.1-2401** for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § **54.1-3012.1**;

15. To expedite application processing, to the extent possible, pursuant to § **54.1-119** for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. (Effective until July 1, 2021) To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § **63.2-100** and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ **54.1-3400** et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

19. (Effective July 1, 2021) To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § **22.1-289.02** and regulated by the Board of Education in the administration of prescription drugs as defined in the Drug Control Act (§ **54.1-3400** et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § **54.1-2957** *and the licensure of licensed certified midwives pursuant to § **54.1-2957.04***.

§ **54.1-3303**. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, ~~or by~~ a licensed nurse practitioner pursuant to § **54.1-2957.01**, *a licensed certified midwife pursuant to § **54.1-2957.04**,* a licensed physician assistant pursuant to § **54.1-2952.1**, or a TPA-certified optometrist pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may

be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § **38.2-3418.16**, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § **38.2-3418.16**; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § **32.1-127.1:03** and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § **3.2-6500**, other than an equine as defined in § **3.2-6200**, a group of agricultural animals as defined in § **3.2-6500**, or bees as defined in § **3.2-4400**, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically

appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § **18.2-248** for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § **18.2-248** for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ **54.1-3400** et seq.).

G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § **54.1-2957.01** may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ **54.1-3400** et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § **54.1-2952.1** may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ **54.1-3400** et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § **54.1-3223**, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § **54.1-3448** of the Drug Control Act (§ **54.1-3400** et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ **54.1-3450** and **54.1-3455** of the Drug Control Act (§ **54.1-3400** et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § **54.1-3455** of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § **54.1-3455** of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § **32.1-126.4**.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § **54.1-3408.01** and regulations of the Board.

§ **54.1-3408**. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine ~~or~~, a licensed nurse practitioner pursuant to § **54.1-2957.01**, *a licensed certified midwife pursuant to § 54.1-2907.04,* a licensed physician assistant pursuant to § **54.1-2952.1**, or a TPA-certified optometrist pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § **54.1-2954** who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § **22.1-319** and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § **22.1-19** as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (1) epinephrine may possess and administer epinephrine and (2) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ **35.1-18** et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services

may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § **15.2-2820**, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § **32.1-50.2**, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § **22.1-1**, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § **22.1-319** licensed by the Board of Education, or (iii) a private school accredited pursuant to § **22.1-19** as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be

effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § **54.1-2722**, or his remote supervision, as defined in subsection E or F of § **54.1-2722**, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § **63.2-100** and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § **22.1-319** and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ **54.1-3041** et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. (Effective until July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § **63.2-100** and regulated by the State Board of Social Services or a local government pursuant to § **15.2-914**, or (ii) a student of a private school that is accredited pursuant to § **22.1-19** as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the

original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

O. (Effective July 1, 2021) In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § **22.1-289.02** and regulated by the Board of Education or a local government pursuant to § **15.2-914**, or (ii) a student of a private school that is accredited pursuant to § **22.1-19** as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § **32.1-42.1** when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § **18.2-258.1**. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ **54.1-2729.1** et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ **54.1-2729.1** et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § **32.1-126.4**.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § **32.1-46.02**, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § **54.1-3303**, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § **32.1-111.1**, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § **9.1-101**, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § **53.1-1**, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § **54.1-3303**, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an employee or other person acting on behalf of a public place who has completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal other than naloxone in an injectable formulation with a hypodermic needle or syringe in

accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding any other law or regulation to the contrary, an employee or other person acting on behalf of a public place may possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose if he has completed a training program on the administration of such naloxone and administers naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

For the purposes of this subsection, "public place" means any enclosed area that is used or held out for use by the public, whether owned or operated by a public or private interest.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § **22.1-1**, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § **22.1-319** licensed by the Board of Education, or (iii) a private school accredited pursuant to § **22.1-19** as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

2. That the Department of Health Professions (the Department) shall convene a work group to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the

appropriate licensing entity for such professionals. The Department shall report its findings and conclusions to the Governor and the General Assembly by November 1, 2021.

Guidance document: 90-56

Practice Agreement Requirements for Licensed Nurse Practitioners

Adopted by the Board of Nursing – ~~March 21, 2017~~
Adopted by the Board of Medicine – ~~February 16, 2017~~

KEY POINTS:

- Certified Registered Nurse Anesthetist ("CRNA") – A practice agreement is **not** required for nurse practitioners licensed in the category of CRNA. The CRNA practices under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry.
- Certified Nurse Midwife ("CNM") - A practice agreement is required with either a CNM who has practiced for at least two years or a licensed physician for nurse practitioners licensed in the category of CNM prior to completion of 1,000 practice hours.
- Clinical Nurse Specialist ("CNS") – A practice agreement with a licensed physician is required for nurse practitioners licensed in the category of CNS.
- Nurse Practitioner ("NP") – A practice agreement with a patient care team physician is required for nurse practitioners other than a CNM, CRNA, or CNS with less than 2 years of clinical experience.
- Nurse practitioners who are required to have a practice agreement are responsible for maintaining the practice agreement and making it available for review by the Board of Nursing upon request.
- Practice agreements do **not** need to be submitted to the Board of Nursing to obtain or renew the professional license.

FURTHER STATUTORY DETAILS :

CNM - §§ 54.1-2957(H) and 54.1-2957.01(G)

A CNM who has practiced fewer than 1,000 hours shall practice in consultation through a practice agreement with a CNM who has practiced for at least two years prior to entering into the practice agreement or a licensed physician.

- The practice agreement shall address the availability of the consulting CNM or the licensed physician for routine and urgent consultation on patient care.
- If the CNM will prescribe, the practice agreement shall include the parameters of such prescribing of Schedules II through VI controlled substances.

Requirements for CNM autonomous practice can be found in **§ 54.1-2957(H)**

CNS - §§ 54.1-2957(J) and 54.1-2957.01(G)

A CNS shall practice in consultation with a licensed physician in accordance with a practice agreement

- The practice agreement shall address the availability of the physician for routine and urgent consultation on patient care.
- If the CNS will prescribe, the practice agreement shall include the parameters of such prescribing of Schedules II through V controlled substances.
- Inclusion of the prescribing of Schedule VI controlled substances is not required in the practice agreement.

NOTE: There are no conditions in Virginia Code under which a CNS may practice without a practice agreement

NP - §§ 54.1-2957(C) & (D) and 54.1-2957.01(B)

An NP not qualified for autonomous practice shall maintain appropriate collaboration and consultation with at least one patient care team physician, as evidenced in a written or electronic practice agreement which is periodically reviewed and revised. The practice agreement shall include:

- Provisions for the periodic review of health records by the patient care team physician and may include provisions for visits to the site where health care is delivered in the manner and at the frequency determined by the patient care team;
- Provisions for appropriate input from health care providers in complex clinical cases and patient emergencies and for referrals;
- Categories of drugs and devices that may be prescribed;
- Guidelines for availability and ongoing communications that provide for and define consultation among the collaborating parties and the patient;
- Provisions for periodic joint evaluation of services provided;
- Provisions for periodic review and revision of the practice agreement; and
- The signature of the patient care team physician or the name of the patient care team physician clearly stated.

Requirements for NP autonomous practice can be found in **§ 54.1-2957(I)**

MSV℠ MEDICAL SOCIETY OF VIRGINIA

2924 Emerywood Parkway
Suite 300
Richmond, VA 23294

TF 800|746-6768
FX 804|355-6189

www.msv.org

July 16, 2021

Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director
Via Electronic Mail: Jay.Douglas@dhp.virginia.gov
cc: Marie Gerardo, MS, RN, ANP-BC, President
Huong Vu, EA for the Board and Executive Director, huong.vu@dhp.virginia.gov

Re: MSV Comments Regarding House Bill 793 and Draft Report

Dear Executive Director Douglas and Ms. Gerardo:

On behalf of the PAs, medical students, and physicians of the Commonwealth, thank you for your unwavering support of Virginia's healthcare workforce and for your leadership on the Board of Nursing. As the President of the MSV, I would like to offer the following written comment for consideration of the Boards of Nursing and Medicine regarding a recommendation on HB 793.

Just three years ago, the General Assembly passed Del. Robinson's HB 793 hoping to increase access to healthcare by reducing the full-time clinical requirement needed for independent practice of Nurse Practitioners to 5 years. The bill also requested data and an informed recommendation after consideration of geographic, workforce, and disciplinary data in 2021. During the 2021 Session, Del. Dawn Adams introduced HB 1737 that preemptively reduced the clinical requirement prior to the reporting of that data. With HB 793 in mind, HB 1737 passed with the addition of a sunset clause that would allow the Joint Boards an opportunity to review the pending data request from 2018 and see if autonomous practice of NPs with 5 years of clinical experience allowed more patients access to care, and if a further reduction was warranted.

Upon review of the preliminary report, **the data does not indicate that NP autonomous practice with 5 years of full-time clinical experience expanded access geographically or increased access to medical care by nurse practitioners**. Healthcare access issues in Health Professional Shortage Areas (HPSAs) and rural communities across the Commonwealth should be met with evidence-based legislative and regulatory solutions that prove to make a real difference in the lives of Virginians. The reduction of clinical experience required for NP independent practice did not prove successful in expanding access in these areas. Based on the results from the 2020 Nurse Practitioner Workforce survey from the Department of Health Professions, 53% of NPs in Virginia live or work in areas like Northern and Central Virginia where there are a surplus of other healthcare providers, hospitals, and practices. HPSAs such as the Southwest and the Eastern region account for less than 10% of the population of NPs. These

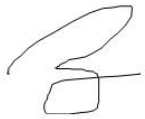
are the areas where patients need expanded access most.[1] **There is therefore no Virginia-specific evidence to suggest a further reduction from 5 years to 2 years will increase access.**

Supervised training before practicing independently is a proven method to protect patients by ensuring that clinicians see the most expansive scope of complex cases with the support of a more experienced provider.[2] Continuing to pursue policy to reduce the required hours of supervised full-time clinical experience needed by a healthcare provider for autonomous practice is ill considered, and such resources and legislation could be better expended on proven, data-driven policy options to expand access to care for more patients.

We humbly ask that the clinicians on the Board of Nursing and the Board of Medicine consider recommending maintenance of 5 years of clinical experience for autonomous practice for NPs. This recommendation will help legislators and stakeholders at the General Assembly evaluate and consider other legislative, regulatory, and budgetary options to increase access that maintain the importance of hands-on clinical experience. The Medical Society of Virginia and Virginia's physician specialties are invested in expanding access to healthcare but are concerned that doing so by reducing years of clinical experience without supportive data is not the answer.

Thank you for your consideration and for your time. To discuss this matter further, please contact Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy, at Cbarrineau@msv.org or 704-609-4948.

Sincerely,



Arthur J. Vayer Jr., MD, FACS
President, The Medical Society of Virginia

CC:
Scott Johnson, Esquire/Hancock, Daniel & Johnson, General Counsel/MSV
Ben H. Traynham, Esquire/Hancock, Daniel & Johnson
Tyler S. Cox, Government Affairs Manager/Hancock, Daniel & Johnson
Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy/ MSV
Kelsey Wilkinson, Government Affairs Manager/MSV

[1] Virginia's Licensed Nurse Practitioner Workforce: 2020
[2] Scope of Practice Policy, Nurse Practitioners Overview

July 16, 2021

Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director
Via Electronic Mail: Jay.Douglas@dhp.virginia.gov
cc: Marie Gerardo, MS, RN, ANP-BC, President
Huong Vu, EA for the Board and Executive Director, huong.vu@dhp.virginia.gov

Re: Virginia Primary Care Physicians' Public Comment Concerning House Bill 793

Dear Executive Director Douglas and Ms. Gerardo:

On behalf of the over 3,000 family physicians, family medicine residents and medical student members of the Virginia Academy of Family Physicians, thank you for your unwavering support of the Commonwealth's healthcare workforce and for your leadership on the Board of Nursing. The VAFP offers the following written comment for consideration of the Boards of Nursing and Medicine regarding your recommendation on HB 793.

The VAFP believes that health professionals should work collaboratively as clinically integrated teams in the best interest and medical care of patients. Physician-led team-based care addresses patients' needs for high quality, accessible health care and reflects the skills, training, and abilities of each of the health care team members to the full extent of their licenses.

While current licensing standards may hold out the practice of nurse practitioners as the practice of nursing, the VAFP views nurse practitioners as practicing medicine. They are not practicing nursing. Short of performing surgery, nurse practitioners are indeed attempting to fulfill the duties of a physician. Allowing APRNs the ability to independently practice medicine, after just two years in practice, with no physician collaboration further splinters the health care team and places patients at risk. APRNs do not have the medical education and training to provide full coordination of a patient's medical care. The VAFP recognizes that nurses are an integral and valuable part of a physician-led team. However, we believe that rushing the independent practice of medicine by autonomous nurse practitioners and prescribing is not the answer. Physicians offer an unmatched service to patients, and, without their skills, patients' safety is at risk.

Healthcare access issues are felt most in health professional shortage areas (HPSAs) and rural communities across the Commonwealth. Based on the preliminary data, the 2018 bill setting NP independent practice to 5 years was not successful in expanding access in these areas. Licensed NPs of medicine have continued to practice in areas such as Northern Virginia, the greater Richmond area, and the Virginia Beach region where prominent health systems and small medical practices are already located.

The VAFP knows the importance of access to primary care physician as we are the most trusted clinician to our patients. States with a higher ratio of primary care physicians to patients have lower Medicare expenditures and lower total and disease-specific mortality.[1] While proponents of independent

[1] Starfield B, Shi L, Macinko J. Contribution of primary care to health system and health. Milbank Q. 2005;83(3):457–502.

diagnosis and prescriptive authority for APRNs frequently argue that APRNs can alleviate the lack of access to primary medical care services, in reality nurse practitioners across the country are choosing to enter into more lucrative subspecialties rather than remaining in primary medical care. Since 2004, the number of nurse practitioners entering primary medical care has dropped by 40 percent[2].

This legislation undermines the physician-led team-based care models that have proven to be most effective in improving patient health and lowering health care costs. VAFP strongly urges you to support physician-led health care teams by opposing the proposed legislation on expanding APRN scope of practice-to-practice medicine without clinical physician collaboration after just two years in the practice of medicine. The significantly variable education, training and clinical experiences of APRNs, poses a significant challenge to the delivery of consistent medical care to our citizens. We respectfully ask the Board of Nursing and the Board of Medicine to consider a recommendation to maintain 5 years of clinical experience before autonomous medical practice of NPs. The intent of HB 793 was to discuss the viability and longevity of NP autonomous medical practice after the first several years. As the members of this Board can see, while NPs are essential members of Virginia's healthcare system, the data does not support that autonomous medical practice has significantly increased access to medical care in the Commonwealth. Reducing the years of clinical experience for any provider without clear and proven data is not the answer.

Thank you for your consideration and for your time. To discuss this matter further, please contact the VAFP's General Counsel and Legislative Consultant Hunter Jamerson, JD, MBA at hunter@macjamlaw.com

Sincerely,

Neeta Goel

Neeta Goel, MD
President

Jesus Lizarzaburu, MD, FAAFP
Chair, Legislative Committee

CC:
Hunter Jamerson, JD, MBA, Macaulay & Jamerson, PC, VAFP General Counsel
Scott Johnson, Esquire/Hancock, Daniel & Johnson, General Counsel/MSV
Ben H. Traynham, Esquire/Hancock, Daniel & Johnson
Tyler S. Cox, Government Affairs Manager/Hancock, Daniel & Johnson
Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy/ MSV
Kelsey Wilkinson, Government Affairs Manager/MSV

[2] Agency for Healthcare Research and Quality. Primary Care Workforce Facts and Stats No. 2. AHRQ Pub. No. 12-P001-3-EF. October 2011.

July 16, 2021

Jay P. Douglas, MSM, RN, CSAC, FRE, Executive Director
Via Electronic Mail: Jay.Douglas@dhp.virginia.gov
cc: Marie Gerardo, MS, RN, ANP-BC, President
Huong Vu, EA for the Board and Executive Director, huong.vu@dhp.virginia.gov

Re: Virginia's Physicians Specialty Comment Concerning House Bill 793

Dear Executive Director Douglas and Ms. Gerardo:

The undersigned thank you for your unwavering support of the Commonwealth's healthcare workforce and for your leadership on the Board of Nursing. On behalf of the undersigned specialty societies, we offer the following written comment for consideration of the Boards of Nursing and Medicine regarding your recommendation on HB 793.

Based on the findings of the HB 793 preliminary report, reducing the clinical experience required for NP independent practice in 2018 **did not prove successful in expanding access to care** in Health Professional Shortage Areas (HPSA) and rural areas in Virginia. HPSAs in the Commonwealth account for less than 10% of the population of NPs, but these are the areas where patients need expanded access most.[1] The 2020 DHP Workforce report indicates NPs have continued to practice in areas such as Northern Virginia, the greater Richmond area, and the Hampton Roads region—all where prominent health systems and small practices are already located.

Additionally, decreasing the amount of clinical experience required for NPs to practice independently **does not address the increasing need for specialists in Virginia**. The single largest employer of Virginia's NPs is the inpatient department of hospitals, not specialty offices, private practices, or research centers.[2]

We respectfully ask that the clinicians on the Board of Nursing and the Board of Medicine consider recommending maintenance of 5 years of clinical experience before autonomous practice of NPs. The intent of HB 793 was, after a period of time, to let the data suggest whether a further reduction was supported. Plainly, the data does not support such a change.

Virginia's physician specialty representatives hope the Joint Boards and the General Assembly consider other legislative, budgetary, and regulatory policy that would better address the growing access issues in the Commonwealth. We are committed to expanding access to healthcare but are concerned that doing so by reducing years of clinical experience for any provider without supportive data.

[1] Virginia's Licensed Nurse Practitioner Workforce: 2020
[2] ibid

Thank you for your consideration and for your time. To discuss this matter further, please contact Aimee Perron Seibert at aimee@commonwealthstrategy.net or 804-647-3140.

Sincerely,

Virginia Orthopaedic Society
Virginia Society of Eye Physicians and Surgeons
Virginia College of Emergency Physicians
Virginia Society of Anesthesiologists
Psychiatrics Society of Virginia
Virginia Chapter, American Academy of Pediatrics
Virginia Chapter, American College of Surgeons
Richmond Academy of Medicine

CC:
Scott Johnson, Esquire/Hancock, Daniel & Johnson, General Counsel/MSV
Ben H. Traynham, Esquire/Hancock, Daniel & Johnson
Tyler S. Cox, Government Affairs Manager/Hancock, Daniel & Johnson
Clark Barrineau, Assistant Vice President of Government Affairs and Health Policy/ MSV
Kelsey Wilkinson, Government Affairs Manager/MSV

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

Boards of Medicine and Nursing

Report on the Implementation of House Bill 793 (2018)[1]

Background

House Bill 793 (2018) eliminated the practice agreement requirement for a Licensed Nurse Practitioner (LNP) who applies for authorization to practice autonomously and has at least five years of full-time clinical practice attested by the patient care team physician. HB793 also requires a report from the boards of Medicine and Nursing as set forth in the enactment clause below:

> ***Enactment Clause from H.B. 793 (2018)***
> ***4. That the Boards of Medicine and Nursing shall report on data on the implementation of this act, including the number of nurse practitioners who have been authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement, to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health and the Chairman of the Joint Commission on Health Care by November 1, 2021.***

The current draft report provides the most recent responsive data and recommended modification language available as of this writing.

Number of Autonomous Licensed Nurse Practitioners and Specialty Areas

The first Autonomous LNP professional designation was issued on February 6, 2019. As of June 30, 2021, there were 1,257 Autonomous LNPs with 1,290 professional designations. Professional designations are classified according to specialty area(s); 33 practitioners have two specialty areas.

The table below lists the various specialty areas and the percentage of the overall professional designations each constituted as of June 30, 2021.

Adult/Geriatric Acute (7.7%)	Pediatric Acute (<1%)
Adult/Geriatric Primary (11.5%)	Pediatric Primary (4.5%)
Family (61.3%)	Psychiatric/Mental (11.5%)
Neonatal (<1%)	Women's Health (2.5%)

Note that the largest proportion is "Family," followed by "Psychiatric/Mental," and "Adult/Geriatric Acute." The smallest proportions are in "Pediatric Acute" and "Neonatal."

[1] The legislative summary, text, and history of the bill are accessible through Virginia's Legislative Information System at: https://lis.virginia.gov/cgi-bin/legp604.exe?ses=181&typ=bil&val=hb793.

Geographic Distribution of Specialty Areas

A Tableau® interactive data visualization was created to provide insight into the geographic practice specialty distributions of Virginia's Autonomous LNPs. It is posted online and is accessible at: https://public.tableau.com/app/profile/rajana.siva/viz/npspecialtycounts/Dashboard2

The user has access to a drop-down menu that enables selection of all or specific specialty areas. As of June 30, 2021, there were 1,132 practices with geographic locations denoted. The map and accompanying table automatically populate with data based upon the specialty selection.[2]

For the remaining 125 Autonomous LNPs, there was no geographic location indicated; these are presumed to be telehealth practices.

For the final written report, an appendix will include all maps and tables in hardcopy form.

Complaints and Disciplinary Actions

To provide information and context on the volume and types of complaints received for the Joint Board's meeting on June 17, 2021, the staff analyzed the agency's disciplinary case tracking data,[3] referencing "Cases Received" in the system from the February 6, 2019 to April 30, 2021 period. The complaints received per 1,000 licensees' rates for the agency overall, board, and profession levels follow.

Additionally, because complaints do not necessarily equate to substantiated misconduct, staff also determined the rate of cases closed with a final disposition of violations per 1,000 licensees. This measure provides additional insight into boards' assessments of actual harm to the public. Here, too, the results are at the agency, board, and profession level.

Staff also analyzed the categories of cases with a violation final disposition to provide additional information on the types of cases involved. The Appendix provides a listing and description of the case categories.

Finally, this section provides a brief summary of the founded cases against Autonomous LNPs.

AGENCY

[2]This visualization is similar to the Department of Health Professions Healthcare Workforce Data Center's "Virginia Physician Board Certification Dashboard" accessible at: https://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/Dashboards/VirginiaPhysicianBoardCertificationDashboard/

[3] Data are from the agency's standard monthly download of internal disciplinary case processing data from the MLO system. The final report will extend the analysis to cover data on cases received up until **June 30, 2021**, end of fiscal year.

As indicated in the table below, the agency received 15,510 complaints within the jurisdiction of a licensing board. As of April 30, 2021, the majority (73.5%) had been resolved.

Received (within Jurisdiction only)	Closed	Violation	Complaint [4] Rate/1k Lic	Violation Rate/ 1k Lic	Licensees [5]
15,510	**11,400 (73.5% of received)**	**1,571 (14% of closed)**	**35.27**	**3.57**	**439,644**

The rate of **all** complaints received per 1,000 licensees within boards' jurisdiction was 38.32, and the overall violation rate was 3.90.

The following provides a breakout by Board of the respective rates per 1,000 licensees.

BOARD

Complaints Received Rate per 1,000 Licensees by Board

Board	Rate/1k	Board	Rate/1k
ASLP	5.46	**Optometry**	42.55
Counseling	22.78	**Pharmacy**	38.57
Dentistry	70.06	**Physical Therapy**	8.40
FD&E	58.30	**Psychology**	54.47
LTCA	83.11	**Social Work**	20.67
Medicine	60.79	**Veterinary Medicine**	97.9
Nursing	25.10		

The complaint rate ranged from a low of 5.46 for the Board of Audiology and Speech-Language Pathology to a high of 97.9 for the Board of Veterinary Medicine. For the Board of Nursing, the rate was 25.10. The average (mean) was 45.24.

As noted earlier, board findings of violation constitute substantiated evidence of harm to the public due to professional misconduct. A board renders its final disposition when the investigation is complete, evidence reviewed, and adjudication processes completed. A violation final disposition confirms that the licensee has engaged in professional misconduct.

[4] The Rate of Complaints Received per 1,000 Licensees and Rate of Violations per 1,000 Licensees are similar to the standard measures tracked in the DHP Biennial Report under Appendix B – Complaints Against Licensees and C – Violations. They are calculated, respectively, as follows: (#Cases Received/#Licensees) x 1,000 and (#Cases with Violation final disposition/#Licensees) x 1,000. Note: Here, the #Licensees refers to the count of licensees as of March 31, 2021 rather than June 30, 2021 due to the timing of the review.

[5] The number of licensees is from March 31, 2021, the latest full quarter for which there are agency standard quarterly data.

The table below shows rate of violation per 1,000 licensees by board for those cases received and closed during the period.

Violation Rate per 1000 Licensees by Board

Board	Rate/1k	Board	Rate/1k
ASLP	0.88	**Optometry**	1.93
Counseling	0.87	**Pharmacy**	16.7
Dentistry	2.62	**Physical Therapy**	0.96
FD&E	5.64	**Psychology**	1.02
LTCA	3.96	**Social Work**	0.25
Medicine	2.83	**Veterinary Medicine**	0.12
Nursing	2.42		

The violation rates were much lower than the complaint rates, and range from a low for Veterinary Medicine of 0.12 to a high for Pharmacy (includes facility violations). The Board of Nursing's rate is a 2.42. The average (mean) across all boards is 3.02.

PROFESSIONS

Within the agency, there are over 60 regulated professions in addition to a number of facility types. The following tables provide a rank ordering of the rate of complaints and of violations per 1,000 licensees for 51 professions.[6] [7]

Profession	Complaint Rate/1KLic	Profession	Violation Rate/1KLic
Ltd Radiologic Technologist	1.84	Ltd Radiologic Technologist	0
Clinical Nurse Specialist	2.45	Lic. Clinical Social Worker	0.37
Speech-Language Pathologist	4.27	Dental Hygienist	0.49
Dental Hygienist	4.76	Sub Abuse Tx Practitioner	0.51
Occupational Therapist	5.36	Occupational Therapy Asst	0.59
Physician Selling CS	5.38	Intern & Resident	0.59
Occupational Therapy Asst	5.87	Behavioral Analyst	0.6
Sub Abuse Tx Practitioner	7.11	Physician Assistant	0.6
Radiologic Technologist	8.32	Speech-Language Pathologist	0.85
Physical Therapist	8.95	Physical Therapist	0.95
Physical Therapist Asst	10.16	Lic Clinical Psychologist	0.96
Athletic Trainer	10.27	QMHP-Child	0.99
QMHP-Child	11.22	Lic Professional Counselor	0.99
Respiratory Therapist	12.46	Lic Marriage & Family Therapist	1.05
Behavioral Analyst	13.24	Occupational Therapist	1.07
Intern & Resident	13.82	QMHP-Adult	1.32
School Speech-Language Pathologist	14.74	Physical Therapist Asst	1.37
Restricted Volunteer	15.15	Respiratory Therapist	1.44
Registered Nurse	15.35	Veterinary Technician	1.69
QMHP-Adult	18.58	Athletic Trainer	1.71
Polysomnographic Technologist	20.28	Lic. Nurse Practitioner	1.71
Veterinary Technician	20.3	Registered Nurse	1.72
Lic Massage Therapist	20.49	Physician Selling CS	1.79
Pharmacy Technician	20.78	Certified Nurse Aide	2.29
Pharmacist	21.7	TPA Optometrist	2.33
Lic Acupuncturist	24.39	Clinical Nurse Specialist	2.45
Lic. Clinical Social Worker	26.48	School Speech-Language Pathologist	2.46
Certified Nurse Aide	30.6	Doctor of Osteopathy	2.64

[6] Facility cases are excluded.

[7] A profession was included if there was at least one case during the period. Note that only closed cases applied to the violation rate.

Profession	Complaint Rate/1KLic	Profession	Violation Rate/1KLic
Physician Selling Drugs	30.67	Assisted Living Facility Administrator	2.9
Lic. Marriage & Family Therapist	31.41	Nursing Home Administrator	3.01
Lic. Practical Nurse	37.18	Medicine & Surgery	3.33
Physician Assistant	37.78	Autonomous Lic Nurse Practitioner	3.35
Lic Nurse Practitioner	39.76	Lic. Practical Nurse	3.77
Lic Professional Counselor	44.03	Radiologic Technologist	4.05
Medication Aide	45.59	Pharmacist	4.27
TPA Optometrist	48.83	Sex Offender Tx Provider	4.47
Lic. Clinical Psychologist	59.56	Genetic Counselor Temp	4.68
Funeral Service Intern	70.18	Dentist	4.76
Doctor of Osteopathy	70.96	Lic Massage Therapist	4.95
Chiropractor	71.47	Lic Acupuncturist	5.22
Funeral Service Licensee	71.93	Medication Aide	6.32
Sex Offender Tx Provider	76.06	Funeral Service Licensee	6.37
Autonomous Lic Nurse Practitioner	89.69	Chiropractor	6.81
Medicine & Surgery	92.85	Veterinarian	7.59
Assisted Living Facility Administrator – Administrator-in-Training	93.02	Pharmacy Technician	10.12
Assisted Living Administrator	97.1	Polysomnographic Technologist	12.17
Nursing Home Administrator	107.54	Physician Selling Drugs	12.27
Veterinarian	125.06	Podiatrist	12.64
Dentist	131.41	Restricted Volunteer	15.15
Podiatrist	158.84	Funeral Service Intern	17.54
Genetic Counselor Temp	222.2	Assisted Living Facility Administrator— Administrator-in-Training	46.51

The complaint rate per 1,000 licensees ranges from 1.87 for Limited Radiologic Technologist to 222.2 for Genetic Counselor Temporary. Note that the violation rate is lower, with a range of near 0 for Limited Radiologic Technologist to 46.51 for Assisted Living Administrator – Administrator-in-Training. The respective average (mean)[8] for each measure is 43.68 and 4.66. Note the arrows indicating the approximate locations of these means in the rankings above.

For Autonomous Licensed Nurse Practitioner, the complaint rate was 89.84 and violation rate was 3.36. This is higher than average complaint rate but lower than average violation rate.

[8] The complaint rate median was 24.39; the standard deviation was 110.18. The violation rate median was 2.45 and standard deviation was 23.26

These rates are similar to Medicine & Surgery (M.D.s) where the complaint rate is 92.85 and violation rate is 3.33.

SPECIAL NOTE: On July 1, 2021, staff received professional designation, complaint and violation data as of June 30, 2021 pertaining to Autonomous LNPs, only. The Complaint /1k Licensees Rate will be revised to 87.50 and Violation/1k Licensee to 3.98 in the next draft. All other professions will be similarly revised to coincide with June 30, 2021 data.

Case Categories

As indicated earlier, staff also analyzed the categories of cases with a finding of violation.

For details on Autonomous LNP founded cases, see the summary "Disciplinary Actions Pertaining to Autonomous LNPs as of June 30, 2021" in the box below.

Disciplinary Actions Pertaining to LNPs as of June 30, 2021

A search of License Lookup for the period January 1, 2019 to June 30, 2021 revealed public disciplinary records on five (5) individuals hereinafter referred to a Respondent A, B, C, D and E. The following is a brief summary of the founded cases. [9]

Respondent A - Family Practice and Authorization to Prescribe. An Order issued December 3, 2020 required participation in the Health Practitioners Monitoring Program.

Respondent A - Family Practice and Authorization to Prescribe. An Order issued December 3, 2020 required participation in the Health Practitioners Monitoring Program.

Respondent B – Adult Acute Geriatric and Authorization to Prescribe. An order issued December 11, 2020 required participation in the Health Practitioners Monitoring Program.

Respondent C – Family Practice and Authorization to Prescribe. An order issued September 13, 2019 rendered a Reprimand for prescribing outside of a bona-fide practitioner-patient relationship and outside of an emergency and failing to document the rationale in the patient's record.

Respondent D – Family Practice and Authorization to Prescribe. An order issued November 20, 2020 rendered a Reprimand and approved course in opiate prescribing regarding a case of continued opiate prescribing for a patient with a history of opioid addiction and noncompliance with pain management. On February 22, 20201, the Board notified the Respondent of compliance with the order.

Respondent E[10] – Family Practice (out of state). Mandatory suspension issued July 21, 2020 for felony criminal conviction for conspiracy to commit Medicaid fraud.

[9] NOTE: The data for the analyses in this section of the report covers the period February 6, 2019 to June 30, 2021 to coincide with the first designation issued and to allow sufficient time for analysis and reporting prior to the boards' meetings. Results may differ with other timeframes.

[10] Respondent E's license was mandatorily suspended under the authority of the Department of Health Professions Director. For further information on mandatory suspension, reference *Code of Virginia* §54.1-2409 (accessible at https://law.lis.virginia.gov/vacode/title54.1/chapter24/section54.1-2409/.

The founded Autonomous LNP cases involved Inability to Safely Practice and Drug-Related, Patient Care.

The following information enables comparison at the agency, board, and profession level. For the sake of simplicity, the board and profession levels narrow to the Board of Nursing, Board of Medicine, Licensed Nurse Practitioner (with collaborative practice), Registered Nurses and Medicine & Surgery (MDs). Other boards and professions can be included in subsequent reports if desired.

*SPECIAL NOTE: The following results cover the period February 6, 2019 to **April 30, 2021.** The next report will extend the analysis period to June 30, 2021 and update rankings if needed.*

AGENCY

The top ten (10) categories across all boards are ranked below. Those that respectively constitute 5% or more are highlighted. It is important to note that only three (3) are considered "complaints" in that the licensing boards, themselves, docket cases with categories related to license issuance or renewal (i.e., continuing education, reinstatement, and eligibility) and compliance cases in follow up to previous orders.

1. **Business Practice Issues**
2. **Inability to Safely Practice**
3. ~~**Continuing Education**~~
4. ~~**Reinstatement**~~
5. **Drug-Related, Patient Care**
6. ~~**Eligibility**~~
7. Abuse, Abandonment & Neglect
8. Criminal Activity
9. Unlicensed Activity
10. Standard of Care – Diagnosis/Treatment

NOTE: The remaining lists only include the categories that constitute 5% or more of the cases.

BOARD OF NURSING (excluding CNAs)

1. **Inability to Safely Practice**
2. ~~**Reinstatement**~~
3. ~~**Eligibility**~~
4. **Drug-Related, Patient Care**
5. **Abuse, Abandonment & Neglect**
6. **Criminal Activity**
7. **Action by Another Board – Patient Care**
8. ~~**Compliance**~~

BOARD OF MEDICINE

1. **Unlicensed Activity**
2. **Inability to Safely Practice**
3. **Drug-Related-Patient Care**
4. **Standard of Care-Diagnosis/Treatment**
5. **Abuse, Abandonment & Neglect**
6. ~~**Reinstatement**~~
7. **Criminal Activity**

LICENSED NURSE PRACTITIONER (COLLABORATIVE ONLY)

1. **Drug-Related-Patient Care**
2. **Inability to Safely Practice**
3. ~~**Reinstatement**~~
4. **Action-by-Another Board, Patient Care**
5. **Criminal Activity**
6. ~~**Eligibility**~~

REGISTERED NURSES

1. **Inability to Safely Practice**
2. ~~**Reinstatement**~~
3. **Action by Another Board, Patient Care**
4. **Criminal Activity**
5. **Abuse, Abandonment & Neglect**
6. ~~**Eligibility**~~

MEDICINE & SURGERY (M.D.)

1. **Inability to Safely Practice**
2. **Drug-Related, Patient Care**
3. **Standard of Care, Diagnosis/Treatment**
4. **Criminal Activity**
5. ~~**Reinstatement**~~
6. **Abuse/Abandonment/Neglect**
7. **Standard of Care, Surgery**

The following section provides modifications to the statutory requirements recommended by the Joint Boards of Nursing and Medicine at their June 16, 2021 and are included for further feedback from the Board of Nursing and Board of Medicine

Recommended Modifications of Act to amend and reenact select sections of the Code of Virginia, relating to nurse practitioners; practice agreements

Enactment Clause - [H 793] Approved April 4, 2018 - That the Boards of Medicine and Nursing shall report on data on the implementation of this act, including the number of nurse practitioners who have been authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement, to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health and the Chairman of the Joint Commission on Health Care by November 1, 2021.

The following recommendations were discussed by the Committee of the Joint Boards of Nursing and Medicine ("Committee") at its meeting on June 16, 2021:

- Apply existing national data and data to be collected during the DHP study (Budget Amendment – SB1100) on Advanced Practice Registered Nurses ("APRNs") to decisions regarding amending of this Act.
- Adopt the criteria for APRN practice as outlined in the National Council of State Boards of Nursing APRN compact in order to better respond to healthcare needs by increasing access to nurse practitioners across state lines through standardizing APRN scope of practice.
- Amend the Act to enable nurse practitioners who hold licenses in both Virginia and another jurisdiction to use attestation of clinical experience in the other jurisdiction for the requisite years to practice without a practice agreement.
- Follow the precedent that was set in 2021 legislation regarding licensed nurse practitioners in the category of certified nurse midwives (see §54.1-2957(H)) by providing the option for experienced nurse practitioners to enter into a practice agreement with less experienced nurse practitioners.
- Permit a licensed nurse practitioner to provide documentary evidence of completion of two years of clinical experience directly to the Boards in lieu of the patient care team physician attestation in order to practice without a practice agreement.
- Collect data on nurse practitioners who have completed two years of clinical experience prior to being permitted to practice without a practice agreement for comparison to the data on those who have completed five years of experience.
- Permanently modify the Act to require two years of clinical experience prior to practicing without a practice agreement.
- Eliminate the practice agreement requirement from the Act because 1) a core competency of nurse practitioner education includes collaboration with the patient care team to achieve optimal care outcomes, and 2) disciplinary actions against nurse practitioners who have practiced without a practice agreement identified in this Report did not reveal a greater safety risk to the public.

Applying DISCIPLINE Complaint Types in MLO

Every disciplinary case entered in MLO must be assigned at least one *Complaint Type.* Most cases will require only one, but others will need several types to accurately reflect all aspects of the case. There is no limit on the number of complaint types that can be entered. Users entering the complaint types in MLO should include as many of the **Patient Care Complaint Types** and **Non-Patient Care Complaint Types** as are active concerns. Many of the numbered complaint types have one or more **subtypes** which are identified by a + symbol. Users should also include as many of the subtypes that are active concerns. Complaint types and subtypes must be **reviewed and changed** when needed to accurately address the current issues in each case as it proceeds through *Intake, Investigation, Probable Cause Review, Administrative Proceedings* and *Closure.*

Follow these rules for entering multiple case types:

1. Enter **all** applicable **Patient Care Complaint Types.** Enter the types in numerical order.
2. When **+ symbols and subtypes** are shown, use one or more of the sub-types as applicable to the case.
3. Enter any **Non-Patient Care Complaint Types and subtypes.** Enter the types in numerical order.

PATIENT CARE Complaint types: #1-14

1. **INABILITY TO SAFELY PRACTICE:** Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.
   - + **Death associated**

2. **DRUG RELATED – PATIENT CARE:** Dispensing in violation of DCA (to include dispensing for non-medicinal purposes, excessive prescribing, not in accordance with dosage, filling an invalid prescription, or dispensing without a relationship), prescription forgery, drug adulteration, patient deprivation, stealing drugs from patients, or personal use.
   - + **Improper compounding or MDR** (mixing/diluting/reconstituting formulation)
   - + **Death associated**

3. **ABUSE/ABANDONMENT/NEGLECT:** Any sexual assault, mistreatment of a patient, inappropriate termination of provider/patient relationship, leaving a patient unattended in a health-care environment, failure to do what a reasonable person would do in a similar situation.
   - + **Sexual misconduct involved**
   - + **Death associated**

4. **STANDARD OF CARE – SURGERY:** Improper/unnecessary performance of surgery, improper patient management, and other surgery-related issues.
   - + **Death associated**
   - + **Sedation/Anesthesia associated**

5. **STANDARD OF CARE – DIAGNOSIS/TREATMENT:** Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat as well as other diagnosis/treatment related issues.
   - + **Death associated**

6. **STANDARD OF CARE – MEDICATION/PRESCRIPTION:** Prescribing, labeling, dispensing, and administration errors. Also includes improper management of patient regimen and failure to provide counseling as well as other medication/prescription related issues.
   - + **Death associated**

7. **STANDARD OF CARE – MALPRACTICE REPORTS:** a judgment or settlement as well as other malpractice related issues.
   - + **Death associated**

8. **STANDARD OF CARE – EXCEEDING SCOPE:** practicing outside the permitted functions of license granted.
   - + **Death associated**

9. **STANDARD OF CARE – OTHER:** cases involving patient care that cannot fit adequately into any other standard of care case type. *Must have supervisor's approval before using this code.*
   - + **Sexual misconduct involved**

10. **INAPPROPRIATE RELATIONSHIP:** Dual, sexual or other boundary issue. Including inappropriate touching and written or oral communications.

11. **UNLICENSED ACTIVITY:** Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.
    - + **Expired license**
    - + **Suspended/revoked license**
    - + **No license**
    - + **Delegation to unlicensed staff**

APPENDIX

12. **MISAPPROPRIATION OF PATIENT PROPERTY:** stealing or use of patient property without authorization.

+ **Fraudulent documentation**

13. **FRAUD – PATIENT CARE:** Performing unwarranted/unjust services or the falsification/alteration of patient records.

+ **Fraudulent documentation**

14. **ACTION BY ANOTHER BOARD – PATIENT CARE:** Disciplinary action by another state or jurisdiction when the underlying act is a patient care case as defined above. This code must be accompanied by another patient care case code that best describes the underlying offense.

+ **Death associated**

NON-PATIENT CARE Complaint types: #50-64

50. **CRIMINAL ACTIVITY:** Felony or misdemeanor arrest, charges pending, or conviction.

+ **Death associated**

51. **HPMP:** Dismissal, vacated stay and non-compliance.

52. **DRUG RELATED- NON-PATIENT CARE:** Theft or diversion of drugs when a patient is not involved (e.g., pharmacies, hospitals, or facilities).

53. **FRAUD – NON-PATIENT CARE:** Improper patient billing, mishandling of pre-need funds, fee splitting, and falsification of licensing/renewal documents.

+ **Fraudulent documentation**

54. **BUSINESS PRACTICE ISSUES:** Advertising, default on guaranteed student loan, solicitation, records, inspections, audits, self-referral of patients, required report not filed, prescription blanks, or disclosure. Using a VA protected title such as MD, without a license, but not practicing in VA.

+ **Failure to address sexual misconduct**
+ **Failure to report patient events**
+ **Failure to supervise patient care**
+ **Hospital failure to report**
+ **Nursing home failure to report**
+ **ALF failure to report (Assisted Living Facility)**
+ **Other institution failure to report**
+ **Licensee failure to report**

55. **DRUG RELATED – SECURITY:** Failure to maintain security of controlled substances.

56. **COMPLIANCE:** Violation of a board order term or probation violation.

57. **MISAPPROPRIATION OF PROPERTY – NON-PATIENT CARE:** stealing or use of property that does not belong to a patient without authorization.

58. **CONFIDENTIALITY BREACH:** disclosing unauthorized client information without permission or necessity.

59. **CONTINUING COMPETENCY REQUIREMENT NOT MET:** Failure to obtain or document CE requirements.

60. **DISHONORED CHECK:** Check with insufficient funds submitted to agency.

61. **RECORDS RELEASE:** Failure or delay in the release of patient records. Charging excessive fees for records requests.

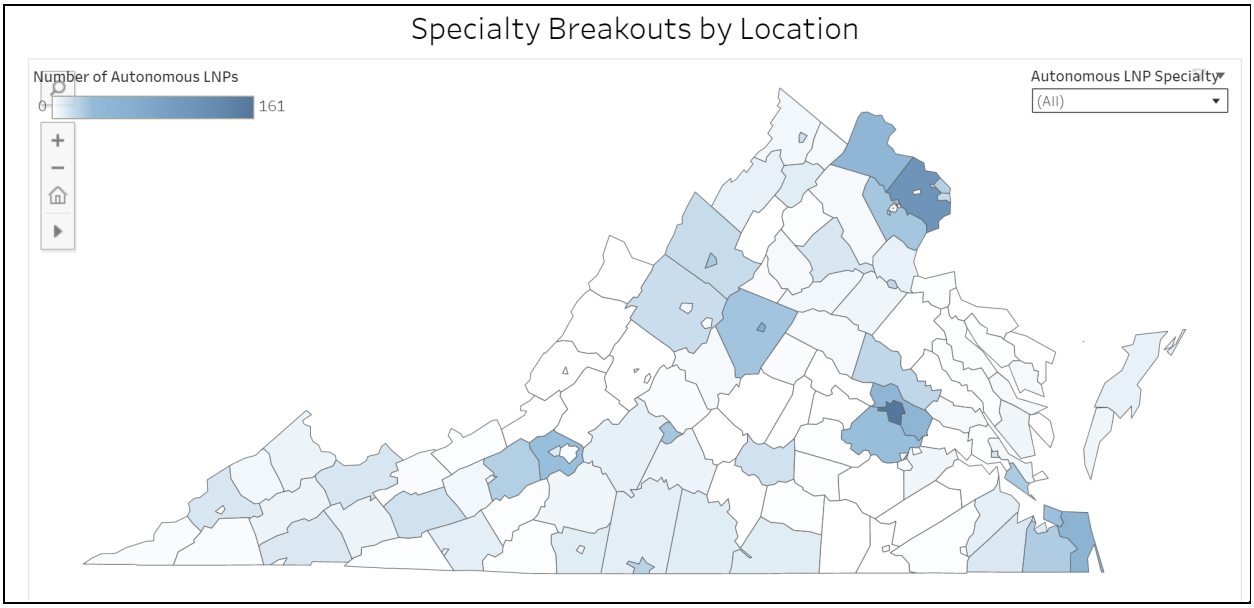
62. **ACTION BY ANOTHER BOARD – NON-PATIENT CARE:** Disciplinary action by another state or jurisdiction when the underlying act is a non-patient care case. This code must be accompanied by another non-patient care Complaint Type code that best describes the underlying offense.

Autonomous Licensed Nurse Practitioner Practice Locations, Overall and by Specialty

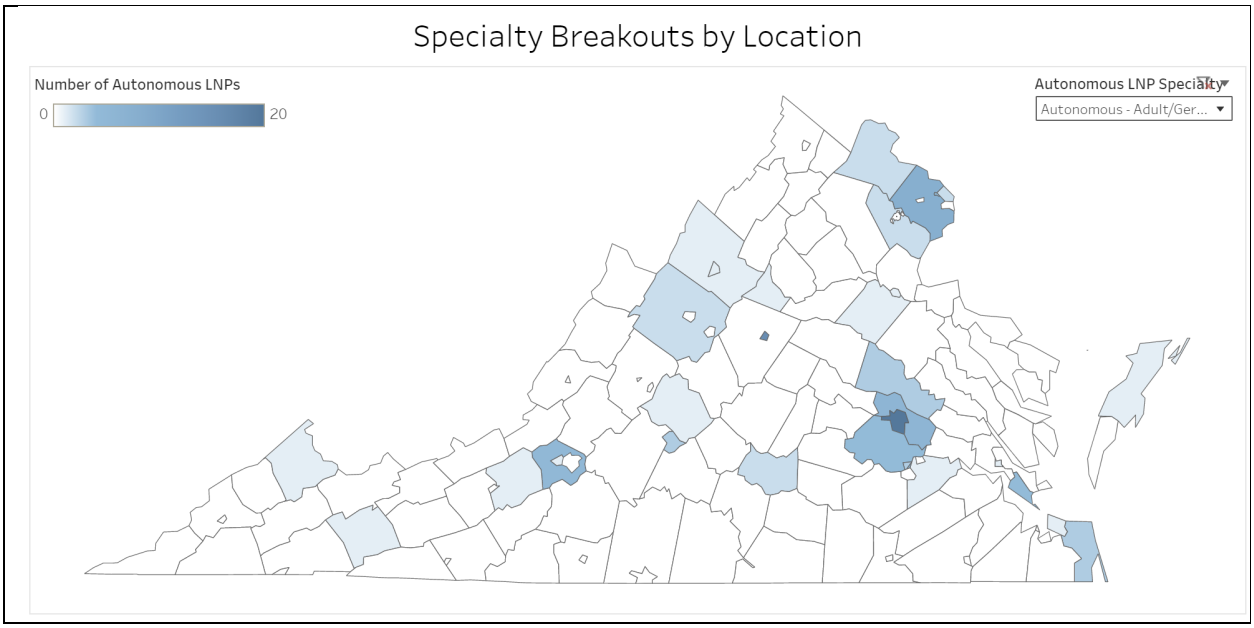
Map Extracts from the online Tableau®

https://public.tableau.com/app/profile/rajana.siva/viz/npspecialtycounts/Dashboard2

All



Adult/Geriatric Acute



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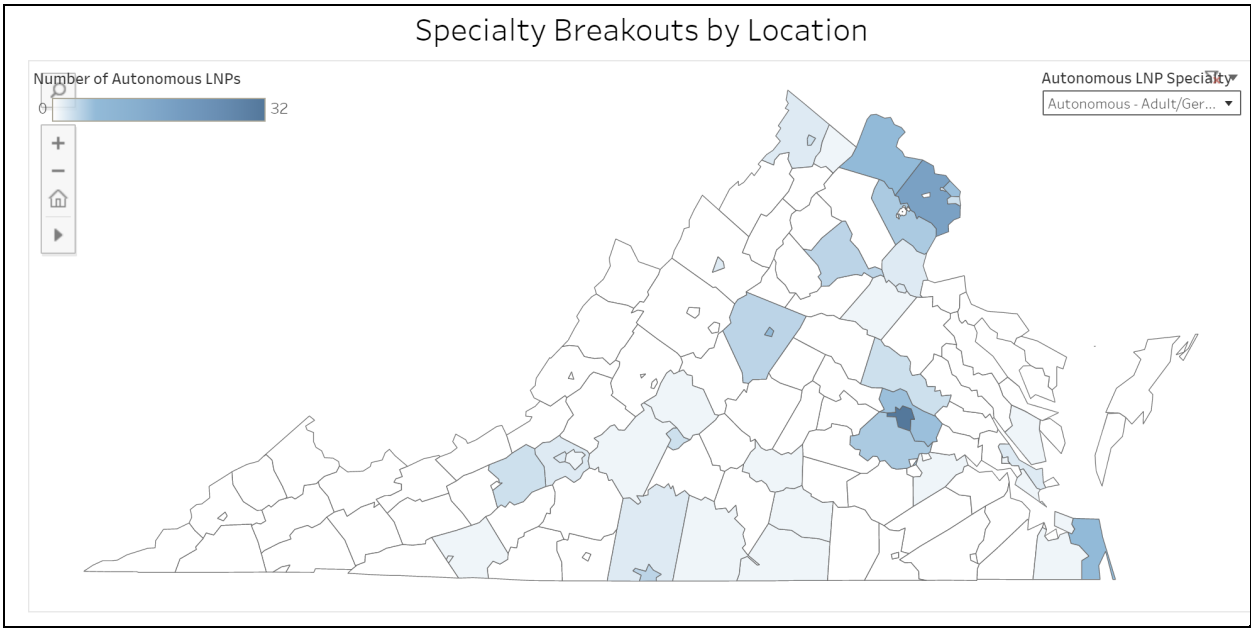
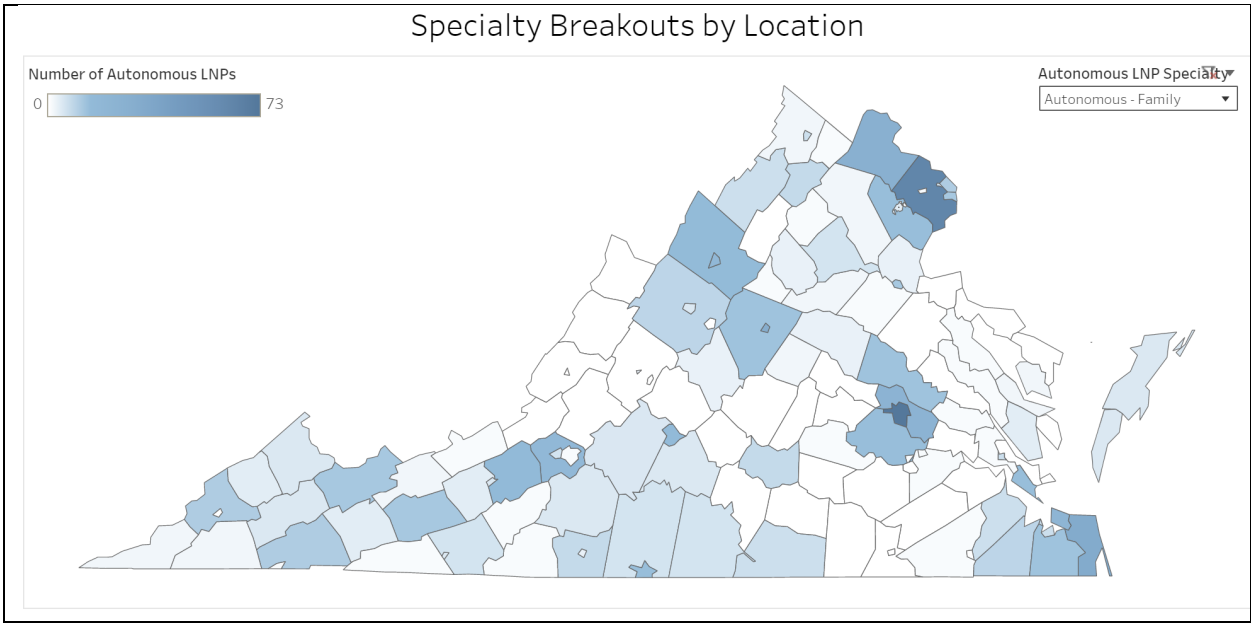


Family



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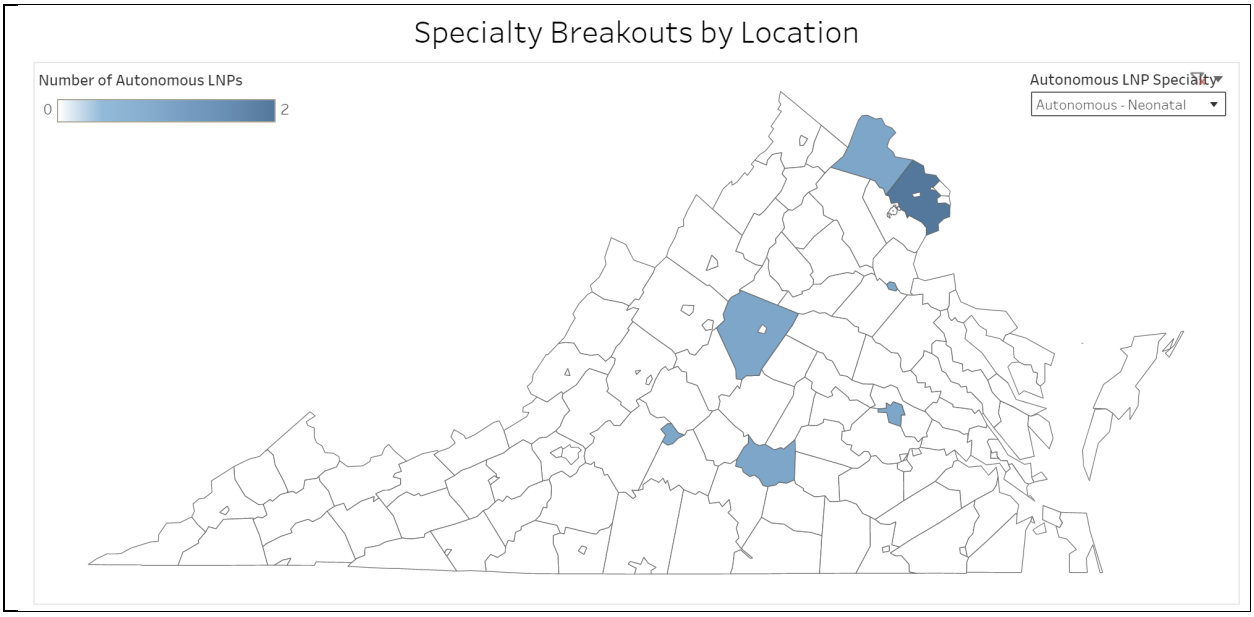
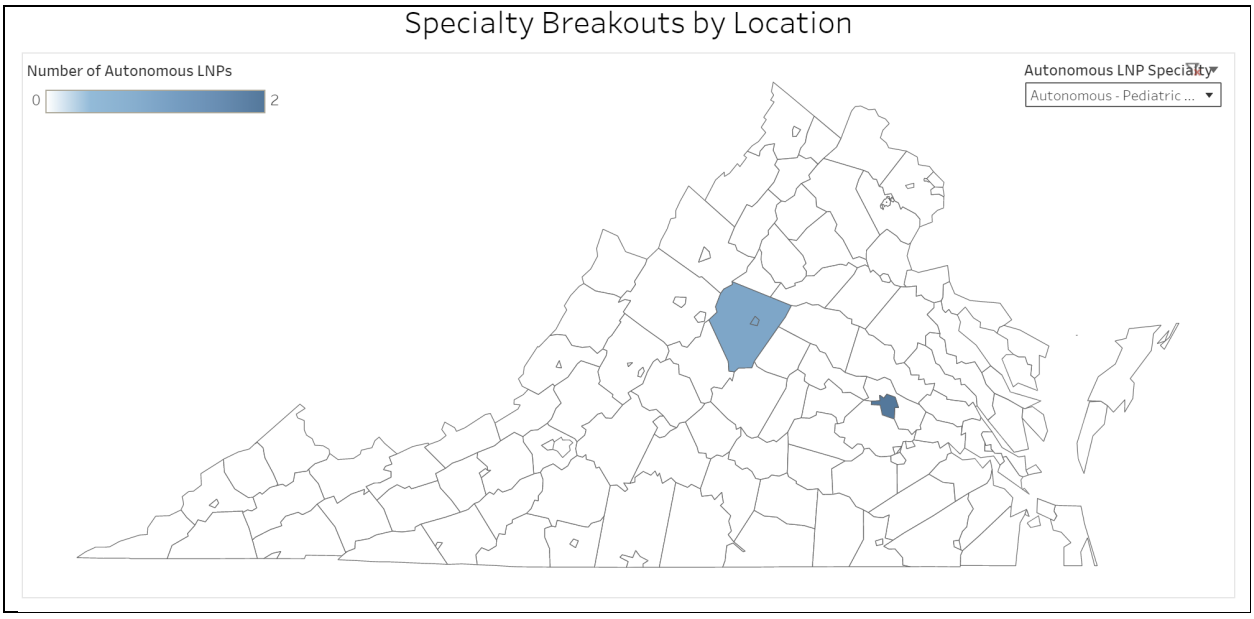
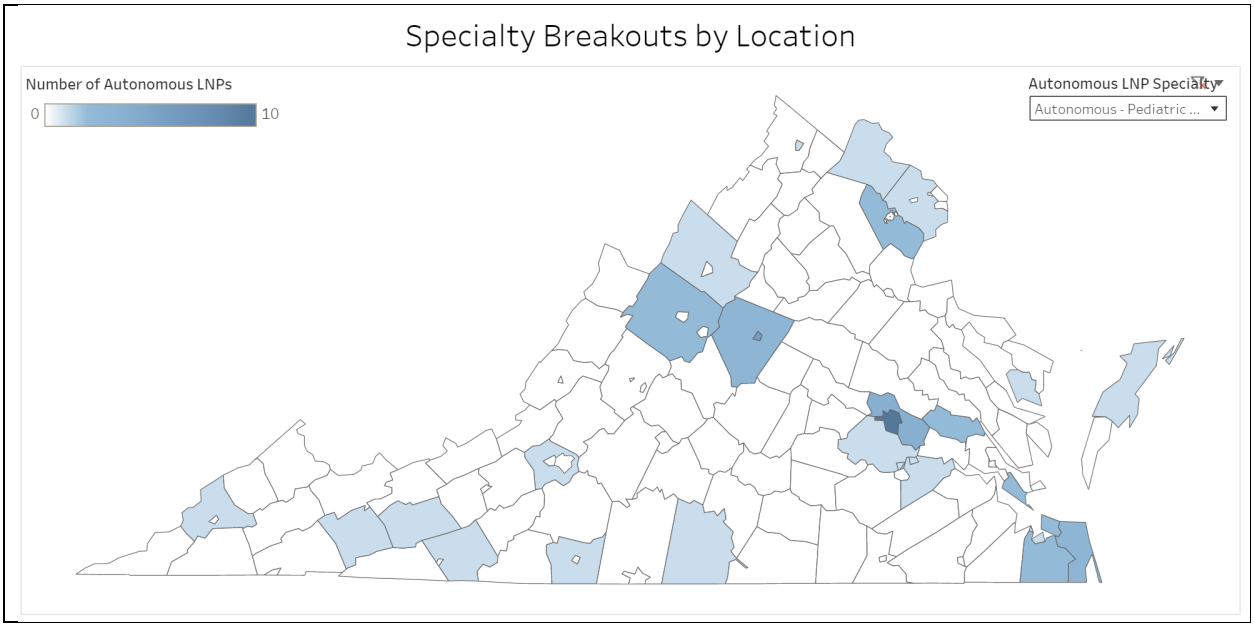


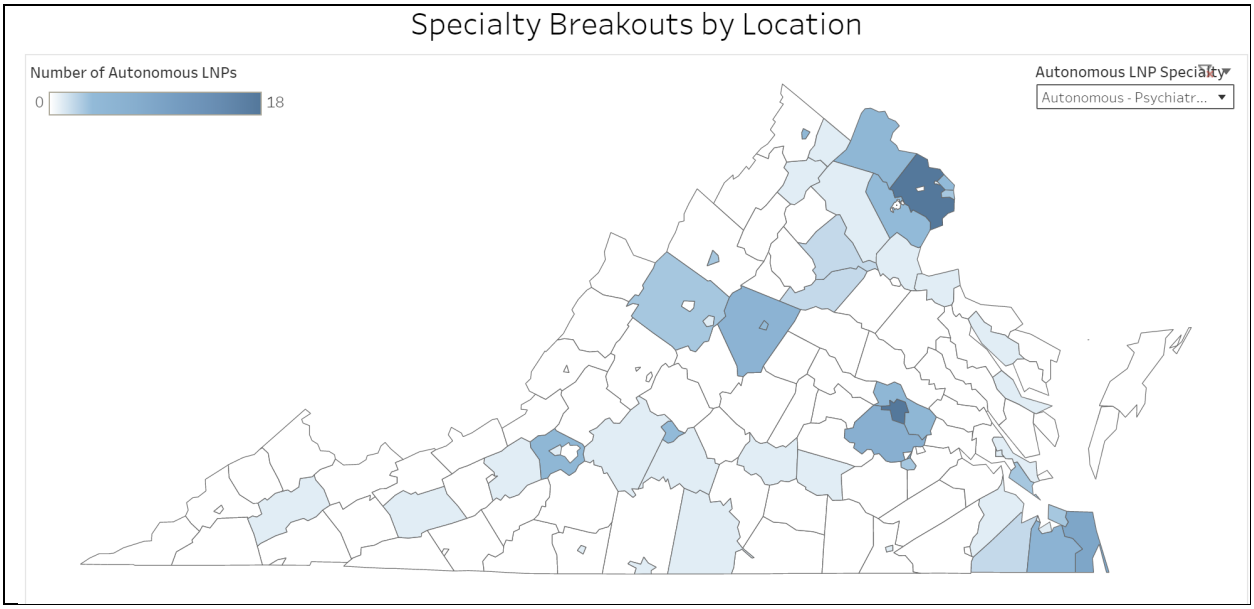
Pediatric Acute



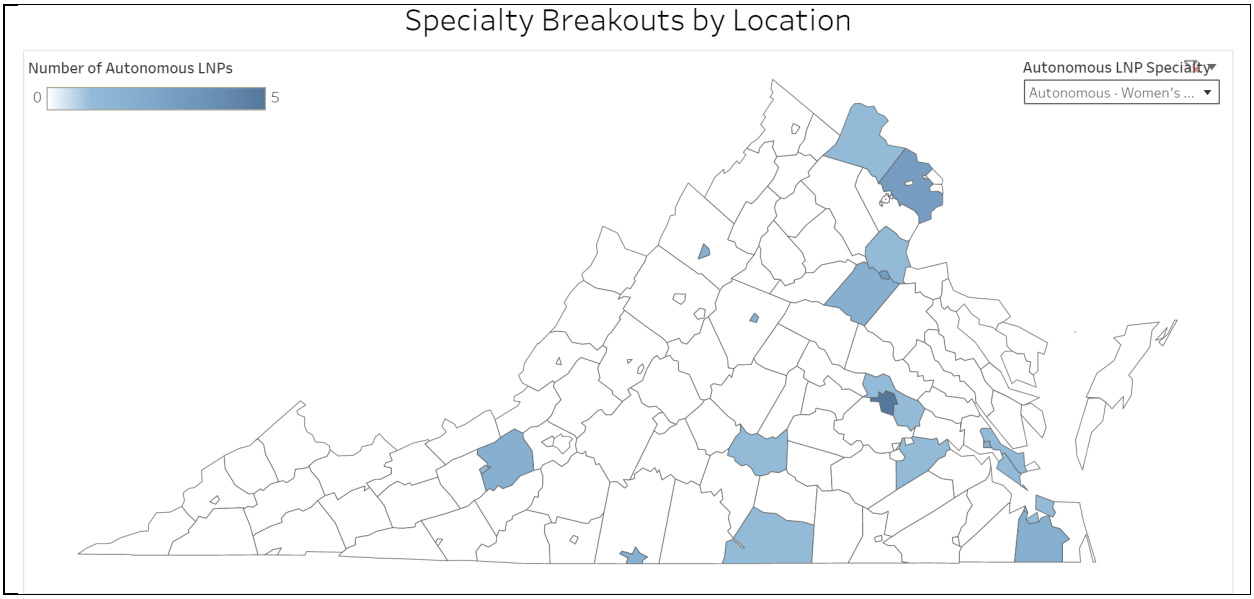
Pediatric Primary



Psychiatric/Mental



Women's Health



Revised Sanctioning Reference Points Worksheets for CNAs, Nurses and RMAs

July 20, 2021

Prepared for:
Board of Health Professions
Board of Nursing

Neal Kauder
Kim Small
804.794.3144
vis-res.com

Visual Research inc
Data Analytics & Information Design

SRP Worksheet Revision Status

Profession	Worksheet	Status
CNAs	Single	Adopted
Nurses	Inability to Safely Practice	Adopted
	Patient Care	Available for adoption
	Fraud	Adopted
RMAs	Single	Available for adoption
LMTs	Single	In progress

SRP Worksheet for CNAs Only

Adopted May 2021

This worksheet correctly predicts **80%** of cases

SRP Worksheet for CNAs Only — Board of Nursing

Case Type Score (score only one)

		Points	Score
a.	Abuse/Inappropriate Relationship	70	
b.	Misappropriation of Patient Property	60	
c.	Inability to Safely Practice	50	
d.	Neglect	40	
e.	Verbal Violations	30	
f.	Abandonment/Standard of Care/Fraud	10	

Added "Fraud"

Case Type Score

Offense and Respondent Score (score all that apply)

a.	Act of commission	60
b.	Patient injury	50
c.	Impaired while practicing	45
d.	Respondent failed to initiate corrective action	40
e.	Any patient involvement	30

Offense and Respondent Score

Total Worksheet Score (Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-100	No Sanction Monetary Penalty Probation Take No Action Stayed Suspension Terms
101-149	Reprimand
150 and up	Revocation Suspension Surrender Finding of Abuse Finding of Neglect Finding of Misappropriation

SRP ISP Worksheet for Nurses Only

Adopted May 2021

This worksheet correctly predicts **70%** of cases

SRP Inability to Safely Practice Worksheet for Nurses Only — Virginia Board of Nursing

Changed the title

Case Type Score (score only one)	Points	Score
a. Inability to Safely Practice	40	
b. Drug Related with Patient Care	20	
c. Drug Related without Patient Care	10	
Case Type Score		

Offense and Respondent Score (score all that apply)		
a. License ever taken away	50	
b. Case involved a mental health admission	40	
c. Act of commission	30	
d. Any prior Virginia Board violations	20	
e. Past difficulties (substances, mental/physical)	15	
f. Evidence of drug diversion	10	
g. Respondent failed to initiate corrective action	10	
h. Any action against the respondent (employer, criminal, civil)	10	
Offense and Respondent Score		

DRAFT

Added "Virginia"

Total Worksheet Score
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-20	No Sanction Monetary Penalty
21-60	Reprimand
61-140	Probation Stayed Suspension Terms
141 and up	Revocation Suspension Surrender

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SRP Patient Care Worksheet for Nurses Only

Revisions made, up for adoption

The addition of factor h. changed the prediction rate from 75% to **72%**

SRP Patient Care Worksheet for Nurses Only — Virginia Board of Nursing

Case Type Score (score only one)	Points	Score
a. Inappropriate Relationship	50	
b. Standard of Care	45	
c. Abuse/Abandonment/Neglect	30	
	Case Type Score	

Added "Abuse/Abandonment"

Offense and Respondent Score (score all that apply)

a. License ever taken away	40	
b. Act of commission	35	
c. Past difficulties (substances, mental/physical)	30	
d. Patient injury	25	
e. Evidence of drug diversion	20	
f. Any action against the respondent (employer, criminal, civil)	20	
g. Any prior Virginia Board violations	5	
h. Respondent failed to initiate corrective action	5	
	Offense and Respondent Score	

Added "Virginia"

Addition of factor

Total Worksheet Score
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-40	No Sanction Monetary Penalty
41-70	Reprimand
71-140	Probation Stayed Suspension Terms
141 and up	Revocation Suspension Surrender

SRP Fraud Worksheet for Nurses Only

Adopted May 2021

This worksheet correctly predicts **71%** of cases

Added "Virginia"

SRP Fraud Worksheet for Nurses Only — Virginia Board of Nursing

Case Type Score (score only one)

		Points	Score
a.	Misappropriation of Patient Property	30	
b.	Other Fraud	20	

Case Type Score

Offense and Respondent Score (score all that apply)

DRAFT

a.	Act of commission	40
b.	License ever taken away	35
c.	Any patient involvement	30
d.	Respondent failed to initiate corrective action	30
e.	Any action against the respondent (employer, criminal, civil)	25
f.	Any prior Virginia Board violations	25
g.	Patient especially vulnerable	10
h.	Evidence of drug diversion	10

Offense and Respondent Score

Total Worksheet Score
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-50	No Sanction Monetary Penalty
51-85	Reprimand
86-135	Probation Stayed Suspension Terms
136 and up	Revocation Suspension Surrender

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Data Analytics & Information Design

Current SRP Worksheet for RMAs Only

SRP Worksheet for RMAs Only — Board of Nursing Adopted 5/7/13

Case Type Score (score only one)

		Points	Score
a.	Impairment	30	
b.	Abuse, Abandonment or Neglect	20	
c.	Standard of Care	20	
d.	Misappropriation of Patient Property/Fraud	10	

DRAFT

Case Type Score

Offense and Respondent Score (score all that apply)

a.	Patient injury with intent	50
b.	Past difficulties (substances, mental/physical)	50
c.	Financial or material gain	40
d.	Any patient involvement	30
e.	Three or more employers in past 5 years	30
f.	Concurrent criminal conviction	10
g.	Act of commission	10

Offense and Respondent Score

Total Worksheet Score (Case Type + Offense and Respondent)

Score	
0-65	No Sanction Reprimand
66-90	Probation Stayed Suspension Suspension or Revocation Suspension or Revocation of Right to Renew Recommend Formal Terms: Continuing Education, HPMP, Other
91 and up	Recommend Formal Suspension or Revocation Suspension or Revocation of Right to Renew Stayed Suspension

Proposed SRP Worksheet for RMAs Only

This worksheet correctly predicts **77%** of cases

SRP Worksheet for RMAs Only

Virginia Board of Nursing

Case Type Score (score only one)

		Points	Score
a.	Inability to Safely Practice	50	
b.	Physical Abuse	40	
c.	Verbal Abuse/Neglect	25	
d.	Standard of Care/Abandonment	15	
e.	Unlicensed Activity	5	

Different Case Types receive different points

DRAFT

Case Type Score

Offense and Respondent Score (score all that apply)

★ a.	Patient injury	40	
★ b.	Evidence of drug diversion	25	
★ c.	Any action against the respondent (employer, criminal, civil)	10	
d.	Act of commission	10	
e.	Any patient involvement	10	
f.	Past difficulties (substances, mental/physical)	5	
g.	Financial or material gain	5	
★ h.	Respondent failed to initiate corrective action	5	

★ New/different factors

Offense and Respondent Score

Total Worksheet Score
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-15	No Sanction Monetary Penalty
16-50	Reprimand
51-70	Probation Stayed Suspension Terms
71 and up	Revocation Suspension Surrender

Any Other Questions?

VIRGINIA BOARD OF NURSING
VIRTUAL **EDUCATION INFORMAL CONFERENCE COMMITTEE**
June 8, 2021

TIME AND PLACE: The virtual Webex meeting of the Virginia Board of Nursing Education Informal Conference Committee was called to order at 9:03 A.M. on June 8, 2021.

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.

MEMBERS VIRTUALLY PARTICIPATED: Ethlyn McQueen-Gibson, DNP, MSN, RN, BC, Chair
James L. Hermansen-Parker, MSN, RN

STAFF VIRTUALLY PARTICIPATED: Jay Douglas, MSM, RN, CSAC, FRE, Executive Director
Jacquelyn Wilmoth, MSN, RN, Deputy Executive Director
Randall Mangrum DNP, RN, Nursing Education Program Manager
Christine Smith, MSN, RN, Nurse Aide/RMA Education Program Manager
Beth Yates, Nursing and Nurse Aide Education Coordinator
Huong Vu, Executive Assistant

OTHERS PARTICIPATED: VIRTUALLY Grace Stewart, Adjudication Specialist, Department of Health Professions
Rebecca Coffin, Ph.D., RN, CNE, Director of Nursing Stratford University, Woodbridge
Melody Cash, Ph.D., RN, Department Chair, Eastern Mennonite University
Laura Yoder, Ph.D., RN, Director of BSN Programs, Eastern Mennonite University
Jennifer Martinez, MSN/ED, MHA, RN, Dean of Nursing, Fortis College, Richmond
Lora Smith, Academic Coach, Fortis College, Richmond
Sheila Burke, Vice President of Nursing, Fortis College, Richmond
Sheryl Delozier, Campus President, Fortis College, Richmond
Roger Swartzwelder, Counsel for Fortis College, Richmond

PUBLIC COMMENT: There was no public comment.

PROGRAM UPDATES: Education Program Updates were presented by Randall Mangrum, Christine Smith and Jacquelyn Wilmoth.

Dr. Mangrum addressed the NCLEX pass rates for the first quarter of 2021. Additionally, he shared that the required NCLEX site visits had been completed for each of the programs with pass rates under 80% for two consecutive years.

Ms. Smith shared that education seminars were held virtually, Mary 25th and 26th, for Nurse Aide education programs with 188 participants between the two sessions. She stated that staff is working to identify Medication Aide education programs that have closed; currently there are approximately 300 programs. Ms. Smith stated that the first RMA curriculum meeting would be held on June 9, 2021 with Felisa Smith, RN Board Member as chair. Ms. Smith reported that approximately 20 TNA candidates have taken the state CNA exam, with a 25% pass rate.

Ms. Wilmoth reviewed the two memos that were provided to the board and shared information regarding the Medication Aide Exam.

FACULTY EXCEPTION REQUESTS:

Stratford University, Woodbridge, BSN Program, US28502000

Mr. Hermansen-Parker moved that the Education Informal Conference Committee of the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A) (27) of the Code of Virginia at 9:40 a.m. for the purpose of deliberation to reach a decision in the matter of Stratford University, Woodbridge, Baccalaureate Degree Nursing Program. Additionally, Mr. Hermansen-Parker moved that, Ms. Douglas, Ms. Wilmoth, Ms. Smith, Dr. Mangrum and Ms. Yates attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously. The Committee reconvened in open session at 9:48 a.m.

Mr. Hermansen-Parker moved that the Education Informal Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

ACTION:

Mr. Hermansen-Parker moved to recommend approval of the faculty exception request as presented for A. Moore. The motion was seconded and carried unanimously.

This recommendation will be presented to the full Board on July 20, 2021.

Eastern Mennonite University, BSN Program, Harrisonburg, US28509700

Mr. Hermansen-Parker moved that the Education Informal Conference Committee of the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A) (27) of the Code of Virginia at 10:05 a.m. for the purpose of deliberation to reach a decision in the matter of Eastern Mennonite University, Harrisonburg, Baccalaureate Degree Nursing Program.

Additionally, Mr. Hermansen-Parker moved that, Ms. Douglas, Ms. Wilmoth, Ms. Smith, Dr. Mangrum and Ms. Yates attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously. The Committee reconvened in open session at 10:11 a.m.

Mr. Hermansen-Parker moved that the Education Informal Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

ACTION: Mr. Hermansen-Parker moved to recommend approval of the faculty exception requests as presented for J. Alderfer and N. Woodard.

. This recommendation will be presented to the full Board on July 20, 2021.

INFORMAL CONFERNCE: **Fortis College, Richmond, ADN Program, US28408900**

Dr. Mangrum notified the committee and the program of his experience with the Advisory Board of Fortis College from 2015-2019. The Committee and program representatives agreed that his experience with the program did not present a conflict of interest and posed no objection to his participation in the informal conference.

Mr. Hermansen-Parker moved that the Education Informal Conference Committee of the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A) (27) of the Code of Virginia at 12:09 p.m. for the purpose of deliberation to reach a decision in the matter of Fortis College, Associate Degree Nursing Program. Additionally, Mr. Hermansen-Parker moved that, Ms. Stewart, Ms. Wilmoth, Ms. Smith and Ms. Yates attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously. The Committee reconvened in open session at 1:30 p.m.

Mr. Hermansen-Parker moved that the Education Informal Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

ACTION: Mr. Hermansen-Parker moved to recommend to withdraw approval to operate an associate degree nursing education program at Fortis College, Richmond and STAY the withdrawal contingent upon the program's NCLEX pass rates for 2021 and 2022 meeting 80% or above and that the program shall be compliant with other terms as noted in the Order.

This recommendation will be presented to the full Board on July 20, 2021

Meeting adjourned at 1:35 p.m.

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Jacquelyn Wilmoth, MSN, RN
Deputy Executive Director

VIRGINIA BOARD OF NURSING
EDUCATION SPECIAL CONFERENCE COMMITTEE
Tuesday, July 6, 2021

Department of Health Professions – Perimeter Center
9960 Mayland Drive, Conference Center 201 – **Training Room 1**
Henrico, Virginia 23233

TIME AND PLACE: The meeting of the Education Special Conference Committee was convened at 9:36 a.m. in Suite 201, Department of Health Professions, 9960 Mayland Drive, Second Floor, Training Room 1, Henrico, Virginia.

MEMBERS PRESENT: Cynthia M. Swineford, RN, MSN, CNE, Chair
Yvette Dorsey, DNP, RN - **joined at 9:19 A.M.**

STAFF PRESENT: Jacquelyn Wilmoth, MSN, RN, Deputy Executive Director
Christine Smith, MSN, RN, Nurse Aide/RMA Education Program Manager
Randall Mangrum DNP, RN, Nursing Education Program Manager
Beth Yates, Nursing and Nurse Aide Education Coordinator

OTHERS PRESENT: Grace Stewart, Adjudication Specialist, Department of Health Professions

INFORMAL CONFERNCE **Salvation Academy, Alexandria, Nurse Aide Program, 100689**

Mr. Rudolph Randolph, program Coordinator was present.

Dr. Dorsey moved that the Education Informal Conference Committee of the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A) (27) of the Code of Virginia at 10:26 a.m. for the purpose of deliberation to reach a decision in the matter of Salvation Academy, nurse aide education program. Additionally, Dr. Dorsey moved that, Ms. Stewart, Ms. Wilmoth, Dr. Mangrum, and Ms. Yates attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously. The Committee reconvened in open session at 11:18 a.m.

Dr. Dorsey moved that the Education Informal Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

ACTION: Dr. Dorsey moved to recommend that Salvation Academy's approval to operate a nurse aide education program be withdrawn and the withdrawal is STAYED until such time that Salvation Academy shall provide evidence of compliance with board of nursing regulations for nurse aide education programs.

This recommendation will be presented to the full Board on July 20, 2021

PUBLIC COMMENT: There was no public comment.

EXCEPTION REQUESTS

Liberty University, Lynchburg, BSN Program, US28500000

Shanna Akers, Dean School of Nursing and Kathryn Miller, Chair of Residential BSN Programs were present.

Ms. Swineford disclosed that she is currently enrolled in a Ph.D. program at Liberty University and that she believes she can be objective in this matter. The program representatives offered no objection.

ACTION: Dr. Dorsey moved to recommend approval of the faculty exception requests as presented for B. Cash, S. Cowell, A. Dixon, D. Fox, A. Gillenwater, K. Gray, C. Greene, A. Hicks, N. Kilian, D. Kline, E. Latshaw, N. Marshall, R. Morris, E. Poole, S. Smith and K. Weaver. The motion was seconded and carried unanimously.

This recommendation will be presented to the full Board on July 20, 2021.

South University, Richmond, BSN Program, US28500700

Dr. Linda Peck, Interim Program Director was present. Dr. Peck stated the request for Ms. Jaquez could be withdrawn as she was no longer teaching in the program.

ACTION: Dr. Dorsey moved to recommend approval of the faculty exception request as presented for T. Hill.

This recommendation will be presented to the full Board on July 20, 2021.

University of Virginia, Charlottesville, BSN Program, US28505700

There were no representatives present for the program.

ACTION: Dr. Dorsey moved to recommend approval of the faculty exception request as presented for K. Suphal.

. This recommendation will be presented to the full Board on July 20, 2021.

Shenandoah University, Winchester, BSN Program, US28500500

There were no representatives present for the program.

ACTION: Dr. Dorsey moved to recommend approval of the faculty exception request as presented for M. Kamienski.

. This recommendation will be presented to the full Board on July 20, 2021.

EDUCATION PROGRAM UPDATES:

Dr. Mangrum presented Nursing Education Program Updates. He advised Chesterfield County Practical Nursing Education Program will now close January 2022 rather than June 2021 due to the programs inability to secure clinical hours for students during the COVID-19 pandemic.

Dr. Mangrum updated the board on the status of nursing program applications.

Ms. Smith presented updates for Nurse Aide Education Programs and the status of applications for nurse aide education programs. She updated the board on the number of nurse aide education survey visits completed for spring 2021.

Ms. Smith updated the board on the number of medication aide programs and the status of applications for medication aide education programs.

Ms. Smith updated the board on the Medication Aide Curriculum Committee that is tasked with revising the medication aide curriculum.

Ms. Smith stated that on May 12, 2021 revisions to Regulations for Nurse Aide Education Programs included an addition to the curriculum 18VAC90-26-40-(A)(12) for "Substance abuse and Opioid misuse." With this regulatory change an addition to the board approved curriculum is needed.

ACTION: Dr. Dorsey moved to recommend to approve the addition to the nurse aide education program curriculum.

. This recommendation will be presented to the full Board on July 20, 2021

Meeting adjourned at 12:36 p.m.

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Jacquelyn Wilmoth, MSN, RN
Deputy Executive Director