

**VIRGINIA BOARD OF NURSING**  
**MINUTES**  
**January 28, 2020**

**TIME AND PLACE:** The meeting of the Board of Nursing was called to order at 9:02 A.M. on January 28, 2020, in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

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

**BOARD MEMBERS PRESENT:**  
Jennifer Phelps, BS, LPN, QMHP-A, CSAC; First Vice President  
Marie Gerardo, MS, RN, ANP-BC; Second Vice President  
Yvette L. Dorsey, DNP, RN  
Margaret J. Friedenberg, Citizen Member  
Ann Tucker Gleason, PhD, Citizen Member  
James L. Hermansen-Parker, MSN, RN, PCCN-K  
Brandon A. Jones, MSN, RN, CEN, NEA-BC  
Dixie L. McElfresh, LPN  
Ethlyn McQueen-Gibson, DNP, MSN, RN, BC  
Mark D. Monson, Citizen Member  
Felisa A. Smith, RN, MSA, MSN/Ed, CNE  
Cynthia M. Swineford, RN, MSN, CNE

**MEMBERS ABSENT:** Meenakshi Shah, BA, RN

**STAFF PRESENT:** Jay P. Douglas, MSM, RN, CSAC, FRE; Executive Director  
Jodi P. Power, RN, JD; Senior Deputy Executive Director  
Terri Clinger, DNP, RN, CPNP-PC; Deputy Executive Director for Advance Practice  
Charlette Ridout, RN, MS, CNE; Deputy Executive Director  
Robin L. Hills, DNP, RN, WHNP; Deputy Executive Director for Education  
Stephanie Willinger; Deputy Executive Director for Licensing  
Jacquelyn Wilmoth, RN, MSN; Nursing Education Program Manager  
Claire Morris, RN, LNHA; Discipline Case Manager  
Patricia L. Dewey, RN, BSN; Discipline Case Manager  
Ann Tiller, Compliance Manager  
Huong Vu, Executive Assistant

**OTHERS PRESENT:** Charis Mitchell, Assistant Attorney General, Board Counsel  
Barbara Allison-Bryan, MD, Department of Health Professions Chief Deputy – **joined the meeting at 10:43 A.M.**  
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions – **joined the meeting at 9:15 A.M.**

**IN THE AUDIENCE:** Guia Caliwagan, Philippine Nurses Association of Virginia (PNAVA)  
Perry Francisco, PNAVA  
Isabelita Paler, PNAVA  
Bella Nocon, PNAVA  
Zenaida D. Laxa, PNAVA  
Virilita R. Delima, PNAVA

Janet Wall, CEO for Virginia Nurses Association (VNA)/Virginia Nurses Foundation (VNF)  
Annette Graham, Board of Nursing Staff

**ESTABLISHMENT OF A QUORUM:**

Ms. Hershkowitz asked Board Members and Staff to introduce themselves. With 13 members present, a quorum was established.

Ms. Hershkowitz welcomed Mr. Jones as a new Board Member. Mr. Jones provided background information about himself.

**ANNOUNCEMENTS:**

Ms. Hershkowitz highlighted the announcements on the agenda.

- World Health Organization 2020 International Year of the Nurse and the Midwife
- **REMINDER** – Financial Disclosure Statement is due on **Monday, February 3, 2020**
- New Staff
  - **Latoya Bagley** has accepted the wage Licensing Specialist by Examination. She started on November 25, 2019
  - **Trula Minton, MS, RN**, former Board Member, has accepted the P-14 Agency Subordinate/Probable Cause Reviewer position. She started on November 25, 2019
  - **Florence Smith** has accepted the P-14 Discipline Specialist. She started on January 6, 2020

**UPCOMING MEETINGS:** The upcoming meetings listed on the agenda:

- NCSBN Board of Directors meeting is scheduled for February 10-11, 2020 in Chicago – Ms. Douglas will attend as a member of the NCSBN Board of Directors for Area III
- The Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for Wednesday, February 12, 2020 at 9:00 am in Board Room 2
- The NLC Commission Meeting is scheduled for March 2, 2020 in Boston, MA – Ms. Douglas will attend as Commissioner for NLC.
- NCSBN Midyear Meeting is scheduled for March 4-5, 2020 in Boston, MA – Ms. Phelps, Dr. Dorsey, Ms. Ridout and Ms. Morris will attend. Ms. Douglas will attend as a member of the NCSBN Board of Directors for Area III.
- NCSBN APRN Roundtable is scheduled for April 7, 2020 in Rosemont, IL – Attendance to be determined pending Agenda

**Note - all NCSBN meetings are funded by NCSBN**

ORDERING OF AGENDA: Ms. Hershkowitz asked staff to provide updates on the Agenda.

Ms. Douglas provided the following:

**Staff Update:**

- **Sharon Zook, DNP, RN, FNP-BC** has accepted the Education Program Inspector P-14 position. Her start date is February 3, 2020
  - **Sally Ragsdale** has accepted the Discipline Administrative & Office Specialist position for CNA Discipline. Her start date is February 10, 2020
  - **Jodi Power, RN, JD, Senior Deputy Executive Director**, will retire as of April 1, 2020 following 27 years of services at DHP
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- **C7** Executive Director Report has been removed to Reports from Consent Agenda Items
  - Revised Motions and Informal Conference Scripts have been added to Other Matters
  - Two additional Consent Orders have been added for consideration
  - Possible Summary Suspension Consideration is scheduled for 1 pm prior to Board Member Training
  - The formal hearing of Teresa Emerson, RN and LNP Reinstatement Applicant scheduled for Wednesday, 1/29/2020, on Panel A has been continued
  - The formal hearing of Capri Williams, LPN Reinstatement Applicant scheduled for Thursday, 1/30/2020, has been continued

CONSENT AGENDA: The Board did not remove any items from the consent agenda.

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

**Consent Agenda**

- |           |   |                                   |
|-----------|---|-----------------------------------|
| <b>B1</b> | November 19, 2019   | Board of Nursing Business Meeting |
| <b>B2</b> | November 20, 2019   | Formal Hearing - Panel A          |
| <b>B3</b> | November 20, 2019   | Formal Hearing Panel B            |
| <b>B4</b> | November 21, 2019   | Formal Hearing Panel              |
| <b>B5</b> | December 5, 2019  | Telephone Conference Call         |
| <b>B6</b> | December 12, 2019   | Telephone Conference Call         |
| <b>B7</b> | December 19, 2019   | Telephone Conference Call         |
| <b>C1</b> | Agency Subordinate Tracking Log   |                                   |
| <b>C2</b> | Financial Report  |                                   |
| <b>C3</b> | Board of Nursing Monthly Tracking Log   |                                   |
| <b>C4</b> | HPMP Quarterly Report   |                                   |
| <b>C5</b> | The Committee of the Joint Boards of Nursing and Medicine December 4, 2019 DRAFT Formal Hearing minutes |                                   |

Ms. Douglas noted that Dr. Brown is not available today due to the General Assembly and Dr. Allison-Bryan will join the meeting after returning from the General Assembly.

DISPOSITION OF  
MINUTES:

None

REPORTS:

**C8 Board of Health Professions (BHP) December 2, 2019 Meeting  
DRAFT Minutes:**

Ms. Hershkowitz stated it was the first meeting she attended as the new appointee. Ms. Hershkowitz provided the Roles of BHP as follow:

- Studies whether emerging professions should be regulated, with the latest being music therapist
- Reviews Practitioner Self-Referral request
- Houses Healthcare Workforce Data Center (HWDC)

OTHER MATTERS:

**Board Counsel Update:**

Ms. Mitchell reported that the Court of Appeals affirmed the Board's decision regarding the Highland appeal case in which the Board denied the application for licensure. Ms. Highland's attorney filed a written appeal with the Virginia Supreme Court and no decision has been made regarding the appeal.

Ms. Yeatts joined the meeting at 9:15 A.M.

Ms. Mitchell reported that CNA Fashakin filed an appeal in the Richmond Circuit Court after the Board denied her reinstatement application. Ms. Mitchell has filed a motion to dismiss base upon the appeal filing being late with a hearing scheduled the end of March 2020.

REPORTS (cont.):

**C7 Executive Director Report:**

Ms. Douglas highlighted the following from her written report:

**Regulations for Elimination of Separate License for Prescriptive Authority (PA)** - will be effective on March 4, 2020. Nurse Practitioners (NPs), who currently have the PA, will receive the new NP licenses with the PA designation. Those, who do not have the PA, can apply with the \$35 fee. New applicants will have one application incorporating both eligibility criteria. Communication has been sent to practitioners already. Ms. Willinger has worked closely with IT on this project. Ms. Douglas added that this will reduce fees and the administrative burden for licensees.

Mr. Monson inquired about how many states total are in the NLC with Alabama joining the Nurse Licensure Compact (NLC). Ms. Douglas replied 34. Mr. Monson asked how many additional states are in the process of joining the NLC. Ms. Douglas replied about six additional states are

expected to join the coming year.

**Licensure for Nurses from Puerto Rico (PC)** - NLC is reviewing the licensure requirements for Nurses from Puerto Rico who did not take the NCLEX exam, which can cause issues for endorsement in Virginia.

**Paperless Licensing Initiative at DHP** – the Board has implemented with massage therapy, practical nurse licenses will be the next group to be implemented. Licensees will no longer receive hard copy paper license after renewal. License Lookup will be primary source of verification. All Boards at DHP have started this process incrementally which will decrease costs, administrative burden and reduce the risk for fraud.

OTHER MATTERS  
(cont.):

**D1 Revision of Guidance Document 90-57 (Virginia Board of Nursing By Laws)**

Ms. Hershkowitz reviewed the proposed revisions to the Bylaws by the Nominating Committee to allow for changes in timing for Nominating Committee to meet and election to occur with the officer terms to start in January 1 of each year.

Ms. Hershkowitz added additional change:

- Page 6 – A: adding “*its*” in front of “*annual meeting*”

Dr. Gleason suggested adding “*has delegated authority*” to the last sentence in Article XII right after “*The Board of Nursing staff*”

Ms. Douglas thanked Ms. Mitchell for her suggestions.

Mr. Monson motioned to adopt the proposed revisions and additional amendments to GD 90-57. The motion was seconded and carried unanimously.

**Presentation of Slate of Candidates and Election of Officers**

**D2a** November 19, 2019 Nominating Committee Meeting DRAFT Minutes

**D2b** December 6, 2019 Slate of Candidates for 2020 Officers Memo

Ms. Friedenbergh presented the Slate of Candidates for Officers for 2020 by the Nominating Committee:

**President:**

Jennifer Phelps, LPN Board Member  
(2<sup>nd</sup> term expires 2021)

**First Vice President:** Marie Gerardo, LNP Board Member  
(2<sup>nd</sup> term expires 2022)

**Second Vice President:** Mark Monson, Citizen Member  
(2<sup>nd</sup> term expires 2022)

Ms. Hershkowitz asked for nominations from the floor for the office of President, First Vice President and Second Vice President; none was received.

Ms. Hershkowitz called for a vote for Ms. Phelps for the office of President. Mr. Monson motioned to elect Ms. Phelps by acclamation. Ms. Phelps was elected as President.

Ms. Hershkowitz called for a vote for Ms. Gerardo for the office of First Vice President. Mr. Hermansen-Parker motioned to elect Ms. Gerardo by acclamation. Ms. Gerardo was elected as First Vice President.

Ms. Hershkowitz called for a vote for Mr. Monson for the office of Second Vice President. Dr. McQueen-Gibson motioned to elect Mr. Monson by acclamation. Mr. Monson was elected as Second Vice President.

Ms. Hershkowitz stated that the elected Officers will take office starting March 1, 2020.

**D3 NCSBN Raises Passing Standard for NCLEX-PN Examination Message**

Ms. Douglas provided background information and process of NCSBN related to changing the passing standard for NCLEX-PN examination, which will be effective on April 1, 2020.

Ms. Douglas answered questions regarding “logits” and its impact for test takers. Ms. Douglas indicated the change in passing standard is not expected to drastically change pass rates.

**July 2020 Board Week Amendment**

Ms. Hershkowitz noted that in July 2019 the Board did not conduct a Business meeting and instead had two days of formal hearings only. Ms. Hershkowitz asked if the Board wishes to have two days of hearings in July 2020 and no business meeting. There was no objection to the same approach for July 2020.

**Appointment of Members for Medication Aide Curriculum**

Ms. Hershkowitz indicated that Ms. Friedenbergh, Ms. McElfesh and Ms. Smith have volunteered to serve on the Medication Aide Curriculum

Committee. Ms. Hershkowitz noted that meetings will be scheduled right after Business meetings on Tuesday to avoid extra time/commitments. Ms. Hershkowitz added that the composition of the Committee will include stakeholders.

**Revised Motions and Scripts**

Ms. Power reviewed the revised motion sheets and informal conference script handouts and asked Board Members to turn in the old versions.

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

RECONVENTION: The Board reconvened at 10:03 A.M.

**Proposed Regulations for Clinical Nurse Specialist**

Ms. Hershkowitz explained the process of the public hearing. There was no one present to provide comment.

Ms. Hershkowitz noted that written comments should be submitted to Ms. Yeatts or to Townhall and the comment period ends on March 20, 2020.

PUBLIC COMMENT: Janet Wall, Chief Executive Officer (CEO) of the Virginia Nurses Association (VNA)/ Virginia Nurses Foundation (VNF), provided the following:

- Today is the first Lobby Day at the General Assembly with about 200 practicing/student nurses signed up. There are four days total.
- Public Policy Platform shared to have one voice – title protection for nurse, financial incentive for APRN preceptors, and The Year of The Nurse
- VNT will be provided electronically only after May 2020
- Spring Conference theme is Cultivating a Happy Work Environment
- Fall Conference theme is Incivility and Bullying
- Quarterly Board of Nursing and workforce updates for CNOs and CNEs via webcast will be launched and it is a joint effort of VNA and Board of Nursing.

LEGISLATION/  
REGULATION:

**F1 Status of Regulatory Action:**

Ms. Yeatts reviewed the chart of regulatory actions provided in the agenda with updates that the regulations for Elimination of Separate License for Prescriptive Authority will be effective on March 4, 2020 and the regulations for Handling Fee for Returned Checks will be effective March 5, 2020.

**F2 Regulatory – Adoption of Final Regulations for Autonomous Practice for Nurse Practitioners:**

Ms. Yeatts reviewed the final regulations, which are identical to emergency regulations currently in effect.

Mr. Monson moved to adopt the final regulations identical to proposed emergency regulations as presented. The motion was seconded and carried unanimously.

**F3 Respond to Petition for Rulemaking regarding Licensure Applicants from Other Countries (18VAC90-19-130)**

Ms. Yeatts stated that comments received were all in favor of the petition.

Ms. Yeatts said that the Board has three options:

- Reject the petition's request and state its reasons
- Adopt and initiates rulemaking by publication of a Notice of Intended Regulatory Action (NOIRA)
- Adopt via Fast Track Action

Ms. Douglas provided history of how this regulation and terminology was put in place intially.

Mr. Monson move to amend 18VAC90-19-130 by Fast Track Action. The motion was seconded and carried unanimously.

Ms. Hershkowitz and Ms. Douglas acknowledged representatives from the Phillipine Nurses Association of Virginia in the audience including those former Board of Nursing Members, one of whom was former Board President.

**General Assembly 2020 Update**

Ms. Yeatts reviewed the 2020 General Assembly update provided in the handout noting that DHP has 50% more bills assigned to DHP this year than in the past.

Dr. Allison-Bryan joined the meeting at 10:43 A.M.

**POLICY FORUM:**

Dr. Elizabeth Carter and Dr. Yetty Shobo presented on the Board of Nursing survey reports. Dr. Carter stated that the Virginia Department of Health Professions' Healthcare Workforce Data Center (HWDC), who administer the survey during the license renewal process, which takes place during a two-year renewal cycle on the birth month of each respondent.

Dr. Shobo provided a summary of the key findings of 2019 reports which will be posted on the DHP website upon approval:

- ❖ Virginia's Certified Nurse Aide Workforce: 2019
- ❖ Virginia's Licensed Practical Nurse Workforce: 2019
- ❖ Virginia's Registered Nurse Workforce: 2019

RECESS: The Board recessed at 11:36 A.M.

RECONVENTION: The Board reconvened at 11:48 A.M.

DIALOGUE WITH DHP  
DIRECTOR:

In addition to written summary, Dr. Allison-Bryan reported the following:

- Required Immunizations (HB1090) – the immunization of School Children shall be consistent with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention, the Advisory Committee on Immunization Practices, the American Academy of Pediatrics, and the American Academy of Family Physicians.
- Naturopathic Doctors Licensure (HB1040) – most likely will be referred to Board of Health Professions for study
- CRNA Prescriptive Authority Bill (HB1059) was passed by the House Committee
- Massage Therapy Bill (HB1121), which requires English proficiency, was sent to Court of Justice for review.

EDUCATION:

**E1 Education Informal Conference Committee January 15, 2020**

**Minutes and Recommendations:**

Ms. Swineford presented written minutes for Board consideration.

Mr. Monson moved to accept the January 15, 2020 minutes and recommendation as presented. The motion was seconded and carried unanimously.

**Chesapeake Career Center Practical Nursing Program**

**Recommendations:**

Mr. Monson moved to accept the recommendations of the Education Special Conference Committee to place Chesapeake Career Center Practical Nursing Program on conditional approval with terms to operate a practical nursing education programs. The motion was seconded and carried unanimously.

**Education Staff Report:**

Dr. Hills reported the following:

- NCSBN is reviewing the nurse aide exam and looking for volunteers from Virginia by the end of February 2020.
- Nurse Aide Education Program Regulations

**Education Program Survey – Possible Modification**

Ms. Wilmoth advised that the 2019 Nursing Education Program Survey is now closed and a report is being prepared by HWDC staff with the intent to present at the March meeting.

Ms. Hershkowitz indicated that the Board has the opportunity to propose additional questions for the 2020 annual survey. Following discussion, the Board suggested the following question topics:

- Identify program type (i.e., proprietary, high school, community college, baccalaureate)
- Barriers to obtaining clinical placement sites
- Differentiate between the number of precepted vs faculty-led clinical hours

Ms. Hershkowitz suggested that Board Members send any additional questions to Dr.Hills.

**CONSIDERATION OF CONSENT ORDERS:**

**G1 Terisha G. Vaughan, RN**

**0001-125110**

Ms. Gerardo moved to accept the consent order to reprimand Terisha G. Vaughan, deny her petition for release from the terms of her probation, and indefinitely suspend her license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

**G2 Patricia Jean Andes, RN**

**0001-155484**

Ms. Gerardo moved to accept the consent order to indefinitely suspend the license of Patricia Jean Andes to practice professional nursing in the Commonwealth of Virginia. The suspension is stayed upon proof of Ms. Andes' entry into a Contract with the Virginia Health Practitioners' Monitoring Program (HPMP) and compliance with all terms and conditions of the HPMP for the period specified by the HPMP. The motion was seconded and carried unanimously.

**G3 Jessica Samson, RN Privilege to Practice  
Texas License 932156 with Multistate Privilege**

Ms. Gerardo moved to accept the consent order to indefinitely suspend the privilege of Jessica Samson 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 seconded and carried unanimously.

**G4 Kimberly Wright Burandt, RN**

**0001-172861**

Ms. Gerardo moved to accept the consent order of voluntary surrender for indefinite suspension of Kimberly Wright Burandt's license to practice professional nursing in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

Ms. Hershkowitz thanked the Board for the privilege and honor of serving as President, noting the commitment of its members and staff.

Dr. Allison-Bryan and Ms. Yeatts left the meeting at 12:15 P.M.

RECESS: The Board recessed at 12:20 P.M.

RECONVENTION: The Board reconvened at 1:10 P.M.

Julia K. Bennett, Assistant Attorney General, and Anne G. Joseph, JD, MPA, Deputy Director of the Administrative Proceedings Division, joined the meeting at 1:10 P.M.

**POSSIBLE SUMMARY SUSPENSION CONSIDERATION MEETING**

Julia K. Bennett, Assistant Attorney General, presented evidence that the continued practice of professional nursing by **Megan Sutton Hardesty, RN (0001-241143)** may present a substantial danger to the health and safety of the public.

Ms. Gerardo moved to summarily suspend the registered nurse license of **Megan Sutton Hardesty** pending a formal administrative hearing and to offer a consent order for indefinite suspension of her license in lieu of a formal hearing. The motion was seconded and carried unanimously.

Ms. Bennett and Ms. Joseph left the meeting 1:31 P.M.

Ms. Douglas shared that for the March Board week there are 10 Board Members indicating available on Monday, March 16, and only 4 Board Members on Thursday, March 19. Ms. Douglas requested at least two Board Members reconsider availability and offer to switch to Thursday in order for the Board to have a panel to conduct formal hearings.

RECESS: The Board recessed at 1:34 P.M.

RECONVENTION: The Board reconvened at 1:41 P.M.

BOARD MEMBER  
TRAINING:

**Occupational Licensure Discussion**

- ❖ NCSBN July 2019 Journal Nursing Regulation (JNR) Supplement was provided and reviewed by Board Members

Ms. Douglas noted the following:

- National conversation in the US with focus of “unnecessary barriers” to practice versus public protection
- International discussions regarding access to care
- Time of “license reform” driven by many factors and is Multi-dimensional
- Risk based approach to regulation
- Nursing is in better place with the NLC than other professions
- Highlighting the 14 subthemes

**C6 Citizen Advocacy Center (CAC) December 10-11, 2019 Annual Meeting Report**

Mr. Monson recommended that Board Members to read the NCSBN July 2019 Journal Nursing Regulation (JNR) Supplement.

Mr. Monson thanked the Board for the opportunity to attend the CAC Annual meeting titled *Healthcare Regulation and Credentialing in an Anti-Regulatory Environment* and highlighted the following:

- Currently 22% of all US employees are licensed, both occupational and healthcare, up from 5% in the 1950s
- There is no peer-reviewed literature which demonstrates positive effects and higher quality services resulting from licensure requirements
- Two models toward requiring licensure – Public Choice, in which regulation is requested and protected by the members of the profession, and Public Protection, in which the regulation is requested and protected by the Public
- Effort in place to decrease barriers such as foreign-trained practitioners, military/spouse, an ex-offenders

Mr. Monson noted that there are many bills presented currently in the General Assembly that may appear to serve to protect the occupations.

Ms. Douglas commented that regulatory board needs to be able to articulate what regulation does.

Ms. Herhskowitz stated that Virginia Commonwealth University (VCU) study looked at the level of education and any correlation between Board disciplinary actions. The result was that it is not the level of education but the number of years of practicing that seems to affect disciplinary actions.

The Board raised the following points during the general discussion:

- Regulatory boards should not lower standards to meet the need of a profession.
- What can be expanded on for advanced practice nursing?
- Need to be able to articulate what regulation does
- Without the Board's regulations, who will keep the public safe?

**MEETING DEBRIEF:**

**The following were well received by Board Members:**

- Interactive dialogue regarding regulation
- HWDC reports are helpful
- General Assembly updates are appreciative
- Handling of the Agenda was well managed

**The following needs improvement per Board Members:**

- Manage time better to allow time for input from staff

The Board suggested NURSYS Report overview for the next training.

Ms. Mitchell stated that she will provide training at the next meeting and asked Board Members to send questions/topics that they want to know to Board staff.

**ADJOURNMENT:**

The Board adjourned at 3:20 P.M.

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Louise Hershkowitz, CRNA, MSHA  
President