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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF NURSING
VIA VIDEOCONFERENCE**

TIME: 9:17 A.M.

October 23, 2020

1 State Board of Nursing
2 October 23, 2020

3
4 BOARD MEMBERS:

5
6 Ann Michele Coughlin, DNP, MBA, RN, Chair
7 K. Kalonji Johnson, Commissioner, Bureau of
8 Professional and Occupational Affairs
9 Kristin Malady, BSN, RN, Vice Chair
10 Sue E. Hertzler, LPN
11 Linda A. Kerns, Esquire, Public Member
12 Kessey J. Kieselhorst, MPA, RD, LDN, CPHQ
13 Linda L. Kmetz, PhD, RN
14 Lori A. Kovach, DNP, RN
15 Sherri Luchs, RN
16 Bridget E. Vincent, MSN, CRNP, APN-BC, CCRN

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18
19 COMMONWEALTH ATTORNEYS:

20
21 Judith Pachter Schulder, Esquire, Board Counsel
22 Megan E. Castor, Esquire, Board Counsel
23 Carole Clarke Smith, Esquire, Senior Counsel
24 Ariel O'Malley, Esquire, Board Counsel
25 William Newport, Esquire, Board Prosecution Co-
26 Liaison
27 T'rese Evancho, Esquire, Board Prosecution Co-Liaison
28 David J. Schertz, Esquire, Board Prosecutor
29 Trista Boyd, Esquire, Board Prosecutor
30 Bridget Guilfoyle, Esquire, Board Prosecutor
31 Lindsay Szymanski, Esquire, Board Prosecutor
32 Matthew T. Sniscak, Esquire, Board Prosecutor
33 Codi M. Tucker, Esquire, Board Prosecutor

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35
36 DEPARTMENT OF STATE AND BOARD STAFF:

37
38 Wendy Miller, MSN, RN, Acting Executive Secretary and
39 Nursing Practice Advisor
40 Cynthia K. Miller, Board Administrator
41 Marilyn Teeter, MSN, RN, Nursing Education Advisor
42 Cynthia K. Montgomery, Esquire, Deputy Chief
43 Counsel, Department of State
44 Theodore Stauffer, Executive Secretary, Bureau of
45 Professional and Occupational Affairs
46 Marc Farrell, Deputy Policy Director, Department of
47 State
48 Janelle Hawthorne, Law Clerk, Department of State
49 William McClain, Law Clerk, Pennsylvania Department of
50 State

State Board of Nursing
October 23, 2020

DEPARTMENT OF STATE AND BOARD STAFF: (Continued)

Cole Gordner, Legal Intern, Department of State
Kraig R. Kiehl, Deputy Secretary for Regulatory
Programs, Department of State

ALSO PRESENT:

Mary Marshall, Director, Workforce & Professional
Services, The Hospital and Healthsystem Association
of Pennsylvania
Andrew C. Harvan, Esquire, Pennsylvania Medical
Society
Julie Charnosky, MS, RDN, LDN, Pennsylvania Academy of
Nutrition & Dietetics
Jen Smeltz, Executive Director, Senate Consumer
Protection and Professional Licensure Committee
Wesley J. Rish, Esquire, Rish Law Office, LLC
Joanne Konick, RN
Patty DeLucia, Lincoln Technical Institute Practical
Nursing Program - Allentown
Kelly Stephens, MSN, RN, Director of Professional
Development, Pennsylvania State Nurses Association
Michelle Davis, RN, MSN, Director of Nursing, Lincoln
Technical Institute - Allentown
Lisa Ghiloni, PhD, MSN, RN, Director of Nursing,
Blessings Center for Technical Arts and Science
Deborah Little, EdD, RN, CNE, Corporate Assistant Dean
of Nursing, Lincoln Technical Institute
Maureen May, RN
Brittnea Boyer, Student Nurse, Pennsylvania State
University
Maria C. Battista, JD, EdD, Director of Policy and
Government Affairs, Pennsylvania Coalition of Nurse
Practitioners
Jonathan Humma, Legislative Director, Office of
Senator John DiSanto
Janyce L. Collier, MSN, RN, CNE, Director, Franklin
County Career & Technology Center Practical Nursing
Program/Interim President, Pennsylvania Association
of Practical Nursing Administrators
Noah Logan, Government Affairs Specialist,
Pennsylvania State Nurses Association
Maureen Murt, Director, Associate Degree Nursing,
Bucks County Community College

1 Kayla Smith, Director, Practical Nursing Program,
2 Huntingdon County Career and Technology Center
3 Lauren Sheetz, Director, Practical Nursing Program,
4 Penn College at Wellsboro
5 Wayne E. Reich, Jr., MSN, MBA, RN, Director of
6 Nursing, Bachelor Degrees, Penn College of
7 Technology
8 Kimberly Pilker, Program Director of Nursing, Erie
9 Institute of Technology
10 Deborah Williamson, Reading Hospital School of Health
11 Sciences
12 JoAnne Konick-McMahon, MSN, RN, PCCN
13 Pamela Stauffer, RN
14 Andrew Cooper
15 Sherry Murphy
16 Ryan Stauffer
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2 State Board of Nursing

3 October 23, 2020

4 ***

5 The regularly scheduled meeting of the State
6 Board of Nursing was held by videoconference pursuant
7 to the Governor's March 16, 2020 waiver of the
8 "physical presence" requirement in section 2.1(c) of
9 the Professional Nursing Law (63 P.S. § 212.1(c) on
10 Friday, October 23, 2020. Ann Michele Coughlin, DNP,
11 MBA, RN, Chair, called the meeting to order at 9:17
12 a.m.

13 K. Kalonji Johnson, Commissioner, Bureau of
14 Professional and Occupational Affairs, was not present
15 at the commencement of the meeting.

16 ***

17 [Judith Pachter Schulder, Esquire, Board Counsel,
18 noted the meeting was being recorded and those who
19 continue to participate were consenting to being
20 recorded.]

21 ***

22 Roll Call

23 [Chair Coughlin requested a roll call be taken of
24 Board members.]

25 ***

1 Introduction of Board Prosecutors

2 [William A. Newport, Esquire, Board Prosecution
3 Liaison, identified members of prosecution.]

4 ***

5 Introduction of Board Counsel

6 [Carole Clarke Smith, Esquire, Senior Counsel,
7 introduced members of Board Counsel.]

8 ***

9 Introduction of Board Staff

10 [Wendy Miller, MSN, RN, Acting Executive Secretary and
11 Nursing Practice Advisor, introduced Board staff.]

12 ***

13 Introduction of Audience Members

14 [Judith Pachter Schulder, Esquire, Board Counsel,
15 requested audience members identify themselves and add
16 their names to the chat or email Board Administrator
17 Cindy Miller directly.]

18 ***

19 Adoption of the Agenda

20 CHAIR COUGHLIN:

21 Do I have a motion to adopt the agenda
22 for the October 23 meeting of the State
23 Board of Nursing?

24 MS. MALADY:

25 So moved.

1 MS. HERTZLER:

2 Second.

3 CHAIR COUGHLIN:

4 All those in favor? Opposed?

5 Abstentions?

6 [The motion carried unanimously.]

7 ***

8 Adoption of Minutes

9 CHAIR COUGHLIN:

10 Do I have a motion to adopt the minutes

11 from the June meeting?

12 MS. MALADY:

13 So moved.

14 DR. KMETZ:

15 Second.

16 CHAIR COUGHLIN:

17 All those in favor? Opposed?

18 Abstentions?

19 [The motion carried. Dr. Kovach abstained.]

20 ***

21 Adoption of Minutes

22 CHAIR COUGHLIN:

23 Do I have a motion to adopt the minutes

24 from the July meeting?

25 MS. HERTZLER:

1 So moved.

2 DR. KMETZ:

3 Second.

4 CHAIR COUGHLIN:

5 All those in favor? Opposed?

6 Abstentions?

7 [The motion carried. Dr. Kovach and Ms. Luchs
8 abstained from voting on the motion.]

9 ***

10 [K. Kalonji Johnson, Commissioner, Bureau of
11 Professional and Occupational Affairs, entered the
12 meeting at 9:24 a.m.]

13 ***

14 Adoption of Minutes

15 CHAIR COUGHLIN:

16 Do I have a motion to adopt the minutes
17 from the September meeting?

18 MS. HERTZLER:

19 So moved.

20 DR. KMETZ:

21 Second.

22 CHAIR COUGHLIN:

23 All those in favor? Opposed?

24 Abstentions?

25 [The motion carried unanimously. Ms. Vincent

1 abstained.]

2

3 Report of Prosecutorial Division

4 [Chair Coughlin noted VRP Consent Agreement items 2
5 through 16. She also noted Ms. Boyd's items 17, 18,
6 and 66.]

7 Trista Boyd, Esquire, Board Prosecutor, discussed
8 item 17.]

9

10 [Chair Coughlin noted Ms. Evancho's items 19 through
11 26.]

12 T'rese Evancho, Esquire, Board Prosecution
13 Liaison, discussed items 19 and 23.]

14

15 [Chair Coughlin noted Ms. Guilfoyle's items 27 through
16 29.]

17

18 [Chair Coughlin noted Mr. Schertz' items 30 and 31.]

19 David J. Schertz, Esquire, Board Prosecutor,
20 discussed items 30 and 31.]

21 Wesley J. Rish, Esquire, Rish Law Office, LLC,
22 Counsel for Respondent, was present and participated
23 in the discussion regarding item 31.]

24

25 [Chair Coughlin noted Mr. Sniscak's item 32.]

1 Wesley J. Rish, Esquire, Rish Law Office, LLC,
2 Counsel for Respondent, discussed item 32.]

3 ***

4 Regulation Update

5 [Judith Pachter Schulder, Esquire, Board Counsel,
6 referred to Act 41 for the Board's review and
7 discussion at the December meeting. She noted the
8 addition of a Continued Competency piece for
9 registered nurses (RNs), practical nurses (PNs),
10 certified registered nurse practitioners (CRNPs), and
11 clinical nurse specialists (CNSs) who have not
12 practiced for 5 years but want to restore their
13 licenses.

14 Ms. Pachter Schulder noted that under current
15 regulations, applicants are required to pass either
16 the National Council Licensure Examination (NCLEX)
17 again or take a reactivation course and pass its
18 applicable examination or practice in another
19 jurisdiction during the lapsed period. She mentioned
20 that at the December meeting the Board must decide
21 whether they use the 2-year or 5-year language in this
22 proposal.

23 Ms. Pachter Schulder provided a regulatory
24 update, noting the Nursing Education Program
25 regulations were with Regulatory Counsel for review.

1 She mentioned that the statement of policy for CRNPs,
2 the ABC-MAP (Achieving Better Care by Monitoring All
3 Prescriptions Program) regulations and Opioid
4 Continuing Education regulations will have the
5 Preamble and RAF drafted after the Act 41 regulations
6 are prepared. She stated the Volunteer Health License
7 regulation is going to proceed with other boards and
8 is being done by other counsel. She noted Child Abuse
9 regulations were moving along as adopted.]

10 ***

11 Pennsylvania Legislative Update

12 [Judith Pachter Schulder, Esquire, Board Counsel,
13 reminded everyone that this is a *sine die* year. She
14 referred to House Bill 100 regarding CRNPs, noting the
15 proposal to have a pilot program for CRNPs. She
16 explained that a CRNP who practiced for 3 years and
17 3600 hours in collaboration with a physician would be
18 permitted to independently practice in a "health
19 professional shortage area" determined by the Federal
20 Government and Department of Health.

21 Ms. Pachter Schulder provided information
22 concerning additional certification for those
23 interested in the pilot program. She stated the pilot
24 program would set up a committee made up of physicians
25 and CRNPs, which would be a subcommittee of the Board.

1 She stated the Board would be required to write
2 regulations, and the subcommittee would help review
3 the regulations and applications submitted regarding
4 primary care experience.

5 Ms. Pachter Schulder referred to Senate Bill 870
6 regarding physician assistants, which would remove
7 approval of the supervising written agreement. She
8 explained the differences between the CRNP
9 collaborative agreements and prescriptive authority
10 collaborate agreements and physician assistant
11 agreements. Ms. Pachter Schulder noted language
12 changes in Senate Bill 870 regarding supervision,
13 where the words "directing" and "personally" have been
14 removed, and the word "responsibility" added.

15 Ms. Pachter Schulder pointed out Legislative
16 Resolutions that recognized Midwife Week from October
17 4 to October 10 and Pediatric Nurse Week from October
18 5 through October 11.]

19

20 Report of Board Chairperson

21 [Ann Michele Coughlin, DNP, MBA, RN, Chair, thanked
22 everyone for their flexibility, dedication, and
23 continued commitment.]

24

25 Report of Commissioner

1 [K. Kalonji Johnson, Commissioner, Bureau of
2 Professional and Occupational Affairs, thanked the
3 Board, Board staff, and program staff for all of their
4 hard over the past several months.

5 Commissioner Johnson noted working with the
6 Office of Administration concerning posting the
7 Nursing Education Advisor position and would keep the
8 Board and stakeholders posted.

9 Commissioner Johnson addressed information
10 technology (IT) communication issues and announced the
11 transitioning away from the eAgenda platform to
12 something more modern. He mentioned the importance of
13 folks maintaining their pa.gov email addresses because
14 the new platform would require everyone to access
15 information through pa.gov. He offered assistance
16 from IT to anyone having issues with email.

17 Commissioner Johnson commented that multi-factor
18 authentication is required for the new platforms so
19 knowing how to use that security measure is
20 beneficial.]

21

22 Report of Committees - Probable Cause Committee
23 [Sue E. Hertzler, LPN, reported that the Probable
24 Cause Committee moved on 3 Petitions for Immediate
25 Temporary Suspension on October 1, October 7, and

1 October 9; acted on 9 Petitions for Appropriate
2 Relief; and acted on 32 Petitions for Mental/Physical
3 Examination.]

4 ***
5 Application Review Committee
6 [Kristin Malady, BSN, RN, Vice Chair, reported the
7 Application Review Committee met virtually and moved
8 several applications through the process.]

9 ***
10 Advanced Practice and RN/PN Practice, Education,
11 & Regulation Committee
12 [Linda L. Kmetz, PhD, RN, reported the Advanced
13 Practice Committee met virtually and took action on a
14 couple of applications.]

15 ***
16 Dietitian-Nutritionist Committee
17 [Kessey J. Kieselhorst, MPA, RD, LDN, CPHQ, reported
18 that the Pennsylvania Academy of Nutrition & Dietetics
19 announced House Bill 1802 regarding dietitian-
20 nutritionists was put on hold for the end of this
21 legislative session due to COVID and other issues but
22 would be submitted again in the next legislative
23 session.]

24 ***
25 Report of Board Members Who Attended a Meeting on

1 Behalf of the Board - No Report

2 ***

3 Report of Executive Secretary

4 [Wendy Miller, MSN, RN, Acting Executive Secretary and
5 Nursing Practice Advisor, reminded everyone the
6 extended practical nurse (PN) renewal and the October
7 31 registered nurse (RN) cohort ends on October 31.
8 She reported 79% renewal of the 75,974 RNs eligible to
9 renew and 85% renewal of the 54,618 LPNs eligible to
10 renew. She noted the extended licensed dietitian-
11 nutritionist (LDN) renewal ends on October 29 and that
12 69% of the 4,621 eligible LDNs renewed.

13 Ms. Miller provided tips for licensee renewals,
14 advising everyone to have their Child Abuse Continuing
15 Education completed with enough time for the provider
16 to send the data to the Board and to register using
17 the name on their license. She informed everyone to
18 contact the provider if it had been over a week since
19 completing the Child Abuse Continuing Education (CE)
20 and it is not showing in their record.

21 Ms. Miller emphasized the importance of reviewing
22 answers before submitting renewal applications, noting
23 that licensees who do not complete requirements by the
24 deadline would be required to submit a reactivation
25 application rather than renewal applications.

1 Ms. Miller noted that the Board has received the
2 annual NCLEX® examination results for the RN and LPN
3 examinations, and the preliminary results have been
4 sent to the Programs for their review. A more-
5 detailed report, including the number of programs on
6 provisional status, would be available for the
7 December Board meeting. Ms. Pachter Schulder mentioned
8 that programs that would either be going on
9 provisional status for the first time or have been on
10 provisional status for a lengthy amount of time will
11 have appointments scheduled for the December and
12 January meetings.

13 Ms. Miller announced the reactivation
14 application, prescriptive authority application, and
15 prescriptive authority change forms are now available
16 on the Pennsylvania Licensing System (PALS) website.
17 A paper application and instructions are available on
18 the Board's website for licensure reactivation under
19 the COVID waiver.]

20 ***

21 Appointment - Discussion with Stakeholders Regarding
22 the Act 53 Proposed List of Crimes related to the
23 nursing profession
24 [K. Kalonji Johnson, Commissioner, Bureau of
25 Professional and Occupational Affairs, addressed Act

1 53, which was signed by Governor Wolf in June 2020
2 with an effective date of 180 days. He noted that
3 under the Act, as Commissioner, he is required to
4 publish a schedule of offenses directly related to the
5 practices of each profession under the auspices of the
6 Department of State after soliciting public comment.
7 He commented that the offenses listed are not an
8 automatic bar to licensure but rather creates a
9 rebuttable presumption. Additionally, the list will
10 eventually be part of a regulation package that must
11 undergo regulatory review.

12 Cynthia K. Montgomery, Esquire, Deputy Chief
13 Counsel, Department of State, referred to the list of
14 criminal offenses draft, which is a schedule of
15 criminal convictions that may constitute grounds to
16 refuse to issue, suspend, or revoke a license,
17 certificate, registration, or permit for each
18 profession.

19 Ms. Montgomery stated the list was developed by
20 Board Counsel and Prosecution based on prior cases and
21 case law and by reviewing Act 53, and the Board's
22 enabling Acts - the Professional Nursing Law and the
23 Practical Nurse Law. She noted receiving one written
24 comment on October 21 from the Pennsylvania Coalition
25 of Nurse Practitioners expressing some concerns and

1 asking for additional time to review the remainder of
2 the list.

3 Ms. Montgomery referred to § 3117 of Act 53, where
4 the application of the schedule would be used for
5 preparing preliminary determination, where individuals
6 considering entering the nursing or dietetic-nutrition
7 profession could apply for a preliminary determination
8 to determine whether their criminal history record
9 information would be an impediment to licensure, used
10 in determining discipline of a licensee, and used in
11 determining whether to refuse to issue a license to an
12 applicant.

13 Ms. Montgomery referred to § 3113(d) regarding
14 sexual offenses, which applies to all health care
15 practitioners. She also referred to § 3113(e)
16 regarding acts of violence, where an individual could
17 receive a license if it had been at least 3 years from
18 incarceration or 3 years from imposition of the
19 sentence, the individual has remained conviction-free,
20 and demonstrates significant rehabilitation.

21 Ms. Montgomery noted the Board must be convinced
22 that the individual does not pose a substantial risk
23 to the health and safety of patients, clients, or the
24 public or a substantial risk of further conviction.
25 She provided a definition of "directly related," when

1 evaluating items on the list.

2 Ms. Montgomery stated crimes on the list of
3 offenses directly related to the profession have a
4 rebuttable presumption, where the Board believed
5 licensure of the individual would pose a significant
6 risk to the safety of their clients or the public or a
7 significant risk of further criminal convictions. She
8 noted the individuals would have to prove they do not
9 pose such a risk.

10 Ms. Montgomery addressed criminal convictions not
11 determined to be directly related, where the
12 Prosecution Division would have to prove that the
13 individual poses a substantial risk.

14 Ms. Montgomery stated the Commissioner would be
15 consulting with the Board to determine if the list is
16 acceptable to the Board.

17 Ms. Malady thanked everyone who worked so hard on
18 the list, noting the Board strives to be fair and
19 looks at rehabilitation in adjudicating matters.

20 Commissioner Johnson stated the process is more
21 transparent for individuals who have questions
22 concerning criminal history and is also a tool for the
23 public to better understand how to acclimate through
24 the process.

25 Commissioner Johnson addressed preliminary

1 determination, where somebody thinking about entering
2 the profession would be able to get a clear
3 understanding of whether or not their criminal history
4 may impact their ability to pursue the profession. He
5 pointed out that the process does not fundamentally
6 change the Board's role or responsibility.

7 Dr. Kmetz commented that as a program director,
8 having a student be able to receive a preliminary
9 determination before even applying to nursing school
10 would be so helpful.

11 Ms. Montgomery stated the list would become part
12 of a best practices guide, explaining the process and
13 how boards were going to evaluate criminal history
14 record information to allow individuals to learn
15 upfront what they need to receive a license. She
16 referred to the list of criteria in § 3113(c) that the
17 Board would need to consider. She questioned whether
18 any groups or members of the business community with
19 knowledge of the profession at the meeting would like
20 to address the list.

21 Jonathan Humma, Legislative Director, Senate of
22 Pennsylvania, addressed Act 53 of 2020, noting that
23 Senator John DiSanto was the primary sponsor. He
24 stated Act 53 would extend second chances to
25 rehabilitated citizens and eliminate criminal record

1 lifelong barriers to obtaining an occupational license
2 in Pennsylvania. He noted Act 53 seeks to prohibit
3 the consideration of non-job related and irrelevant
4 criminal records and create greater transparency in
5 licensing determinations.

6 Mr. Humma stated licensing boards were to
7 complete individualized assessments of an applicant's
8 conviction and rehabilitative factors and simply
9 listing an offense as directly related to the
10 profession must not automatically preclude an
11 applicant from licensure unless specified in Act 53.

12 Mr. Humma noted that the State Board of Nursing
13 must strike a critical balance of affording applicants
14 a real opportunity to demonstrate their worthiness of
15 licensure while simultaneously protecting the health
16 and safety of patients.

17 Mr. Humma thanked the Board for their thoughtful
18 consideration as they work to implement Act 53 in a
19 way that maintains professional licensing safeguards
20 while lifting unnecessary or unclear restrictions.

21 Maria C. Battista, JD, EdD, Director of Policy
22 and Government Affairs, Pennsylvania Coalition of
23 Nurse Practitioners (PCNP), referred to PCNP's comment
24 letter and requested additional time to review and
25 comment on the remaining crimes. She noted the key

1 concerns PCNP has relates to the issue of whether any
2 of these crimes truly relate to the practice of the
3 profession.

4 Dr. Battista commented that the purpose of Act 53
5 was to give people second chances and the opportunity
6 to have a profession and is perplexed at the number of
7 offenses that were directly related. She believed the
8 list was heavily weighted with rebuttable presumptions
9 and was not equitable.

10 Dr. Battista compared the State Board of Medicine
11 and State Board of Osteopathic Medicine, where a
12 physician assistant being supervised by a physician
13 under the Medical Board has only 57 crimes that create
14 a rebuttable presumption. She also mentioned a
15 physician assistant, who is equivalent to a nurse
16 practitioner, has only 62 crimes that create a
17 rebuttable presumption under the Osteopathic Board, as
18 opposed to the State Board of Nursing's list that has
19 141 crimes.

20 Dr. Battista questioned the equitableness of the
21 variations between the three Boards. She requested
22 the Board justify 141 crimes, many of which were
23 unrelated to the practice of the profession.

24 Dr. Battista questioned how there could be such
25 disparity between the evaluation process and the

1 rebuttable presumption between the Boards when the
2 safety issue is the same.

3 Dr. Battista requested that PCNP receive an
4 extension of 30 days to give a final review of all the
5 crimes. She also requested the Board of Nursing
6 reconcile the difference of the list of 141 crimes to
7 the list of the Board of Medicine and Board of
8 Osteopathic Medicine and how that applies.

9 Dr. Battista expressed a concern with more
10 individuals becoming physician assistants instead of
11 nurse practitioners because the individuals would have
12 a better chance of becoming licensed in the
13 application process. She believed the list under the
14 Board of Nursing should be much shorter and should be
15 similar to the Board of Osteopathic Medicine and Board
16 of Medicine; otherwise, there is no reason for an
17 individual to become a nurse practitioner.

18 Ms. Pachter Schulder explained that the list
19 provided in December would be a more broken-down
20 version, and the Board would look at all of the
21 comments.

22 Dr. Battista commented that PCNP wants to see
23 balance and equitability and did not see that in the
24 list as provided. She believed many of the crimes
25 would be challenged at the Commonwealth Court if the

1 Board decided to keep the list at 141. She would like
2 to see the list reviewed again in light of the
3 equivalency of a nurse practitioner to a physician
4 assistant and the disparity between the two.

5 Ms. Malady requested information regarding *David*
6 *Andrew King v. the Bureau of Professional and*
7 *Occupational Affairs*, cited in PCNP's comment letter,
8 and how it relates to the list of offenses.

9 Ms. Pachter Schulder explained that *King* is a
10 Board of Barber Examiners disciplinary case involving
11 a 2007 conviction for the felony of involuntary
12 deviate sexual intercourse that occurred nine years
13 prior to issuance of the Order to Show Cause. During
14 the intervening years, Mr. King obtained a barber
15 license. The Barber Board took the position that
16 despite the passage of time and any rehabilitation, a
17 person who commits this offense is permanently unable
18 to obtain a license.

19 Ms. Montgomery further explained that under Act
20 53, the felony offense of involuntary deviate sexual
21 intercourse is a statutory bar to licensure for which
22 the Board has no discretion.

23 In response to PCNP's request to provide
24 additional comment, Ms. Pachter Schulder recommended
25 PCNP provide any further comment by November 23rd for

1 discussion at the December 3rd Board meeting, which
2 would still give the Commissioner an opportunity to
3 publish the list before the end of the year.

4 Commissioner Johnson stated that one of the
5 intents of Act 53 was to move away from the amorphous
6 discussion of moral character and focus on directly
7 relating to an individual's ability to practice based
8 on the Act, looking beyond character and looking at
9 whether the offense constitutes an imminent safety
10 implication to the public and to other members of the
11 profession. He welcomed feedback from all of the
12 stakeholders.

13 Dr. Battista suggested the Board ask the question
14 of whether the crime directly relates, and if it does
15 not, then it should not be on the list for the
16 rebuttable presumption when evaluating the crimes
17 between now and December.

18 Dr. Battista thanked the Board for allowing PCNP
19 the opportunity to submit comments and to provide
20 additional comments before November 23rd.

21 Deborah Little, EdD, RN, CNE, Corporate Assistant
22 Dean of Nursing, Lincoln Technical Institute, noted
23 working with students from very diverse backgrounds
24 and seeing students from the beginning to when they
25 graduate and exemplify professionalism. She believed

1 it to be fair for students to know upfront before
2 going through all of the time and expense and then
3 finding out they cannot be licensed. She noted the
4 list was overly exhaustive and did not believe all of
5 those things should preclude someone from being a
6 nurse.

7 Commissioner Johnson emphasized that the offenses
8 were not preclusions to practice or bars to licensure
9 but offenses that implicate the question of
10 suitability to practice.

11 Ms. Pachter Schulder further explained that
12 besides the sexual offenses that the statute
13 specifically says are bars to licensure, if an offense
14 is listed, there is a rebuttable presumption; however,
15 the Board must still look at the remaining mitigation
16 elements in Act 53 meaning that an applicant can still
17 proceed with an application if they have a crime on
18 the list aside from the ones barred from the statute.

19 Chair Coughlin noted the Board and stakeholders
20 would continue working on categorizing, communication,
21 and dialogue.

22 Ms. Montgomery noted the list would be compared
23 with the Medical and Osteopathic Medical Boards lists
24 noting both Boards received comments and were working
25 on revising their lists. She invited stakeholders to

1 send comments to the Regulatory Resource Account, RA-
2 STRegulatoryCounsel@pa.gov.

3 Ms. Montgomery provided a summary of the list of
4 offenses process from Commissioner Johnson publishing
5 a notice that the lists have been completed to the
6 rulemaking process.]

7 ***

8 New Business - Election of Officers

9 CHAIR COUGHLIN:

10 I would like to nominate Ms. Malady as
11 Chair for 2021.

12 DR. KMETZ:

13 I second that motion.

14 CHAIR COUGHLIN:

15 All in favor?

16 [The motion carried unanimously.]

17 ***

18 CHAIR COUGHLIN:

19 Moving to Vice Chair, I would like to
20 nominate Dr. Kmetz as Vice Chair.

21 MS. MALADY:

22 So moved.

23 MS. HERTZLER:

24 Second.

25 CHAIR COUGHLIN:

1 All those in favor?

2 [The motion carried unanimously.]

3 ***

4 [Ann Michele Coughlin, DNP, MBA, MSN, RN, Chair,
5 addressed Committee appointments. She asked Dr.
6 Kovach if she would like to join the Advanced Practice
7 Committee, and Dr. Kovach accepted the position.

8 Chair Coughlin noted placing further committee
9 appointments on the agenda for the December meeting
10 because the Board would have the actual lists and the
11 committees.]

12 ***

13 [Pursuant to Section 708(a)(5) of the Sunshine Act,
14 the Board entered into Executive Session with Judith
15 Pachter Schulder, Esquire; Megan E. Castor, Esquire;
16 Carole Clarke Smith, Esquire; and Ariel O'Malley,
17 Esquire, at 11:17 a.m. for the purpose of conducting
18 quasi-judicial deliberations on matters listed under
19 the Report of Board Counsel and Report of
20 Prosecutorial Division. The Board returned to Open
21 Session at 12:44 p.m.]

22 ***

23 MOTIONS:

24 MS. PACHTER SCHULDER:

25 During Executive Session, the Board

1 engaged in quasi-judicial deliberations
2 under Section 708(a)(5) of the Sunshine
3 Act under the Report of Prosecutorial
4 Division and Report of Board Counsel.

5 Individual Board members who
6 recused themselves from participating in
7 a matter will identify themselves in the
8 individual motion.

9 Is there a motion to adopt the VRP
10 Consent Agreements items 2 through 16?

11 DR. KMETZ:

12 So moved.

13 MS. HERTZLER:

14 Second.

15 CHAIR COUGHLIN:

16 All those in favor? Opposed?

17 Abstentions?

18 [The motion carried unanimously.]

19 ***

20 MS. PACHTER SCHULDER:

21 Is there a motion in Case No. 18-51-
22 03777 to reject the Consent Agreement as
23 too lenient?

24 MS. HERTZLER:

25 So moved.

1 MS. LUCHS:

2 Second.

3 CHAIR COUGHLIN:

4 All those in favor? Opposed?

5 Abstentions?

6 [The motion carried unanimously.]

7 ***

8 MS. PACHTER SCHULDER:

9 Is there a motion to adopt the following
10 Consent Agreements for which there are
11 no recusals: Case No. 20-51-000587,
12 Case No. 20-51-004324, Case No. 18-51-
13 02134, 18-51-011986, Case No. 19-51-
14 001494, Case No. 19-51-001494, Case No.
15 19-51-014307, Case No. 19-51-015019,
16 Case No. 20-51-007989, Case No. 19-51-
17 012242, Case No. 19-51-014071, Case No.
18 19-51-002712, Case No. 18-51-007946?

19 DR. KMETZ:

20 So moved.

21 MS. HERTZLER:

22 Second.

23 CHAIR COUGHLIN:

24 All those in favor? Opposed?

25 Abstentions?

1 [The motion carried unanimously. The Respondent's
2 name in Case No. 20-51-000587 is Ronald A.
3 Tomaszewski, LPN; Case No. 20-51-004324, Keziah Rachel
4 Summers, RN; Case No. 18-51-02134, Beverly Muldrow,
5 LPN; Case No. 18-51-011986, Jamie Lea Sambenetti, LPN;
6 Case No. 19-51-001494, Fantasia Sheneek Sambou, LPN;
7 Case No. 19-51-014307, Deborah Allison Keller, RN;
8 Case No. 19-51-015019, Loren Jefferies Pulliam, RN;
9 Case No. 20-51-007989, Nicole Ensworth, RN, LPN; Case
10 No. 19-51-012242, Sylvia Marino, RN; Case No. 19-51-
11 014071, Delores Polito Mallory, RN; Case No. 19-51-
12 002712, Nadina Marie Eyestone, RN; and Case No. 18-51-
13 007946, Jacqueline Kirkpatrick Kovel, RN.]

14

15 MS. PACHTER SCHULDER:

16 Is there a motion to adopt the following
17 two Consent Agreements for which members
18 Hertzler, Kerns, and Luchs are recused:
19 Case No. 20-51-007095 and Case No. 20-
20 51-007253?

21 DR. KMETZ:

22 So moved.

23 DR. KOVACH:

24 Second.

25 CHAIR COUGHLIN:

1 All those in favor? Opposed?

2 Abstentions?

3 [The motion carried. Members Hertzler, Kerns, and
4 Luchs recused themselves from deliberations and voting
5 on the motion. The Respondent's name in Case No. 20-
6 51-007095 is Jill Ireland Sweeney, RN, and the
7 Respondent's name in Case No. 20-51-007253 is Clarissa
8 Koontz, RN.]

9 ***

10 MS. PACHTER SCHULDER:

11 Is there a motion to adopt the Consent
12 Agreement in Case No. 19-51-014507 for
13 which members Kerns and Luchs are
14 recused?

15 DR. KMETZ:

16 So moved.

17 MS. HERTZLER:

18 Second.

19 CHAIR COUGHLIN:

20 All those in favor? Opposed?

21 Abstentions?

22 [The motion carried. Members Kerns and Luchs recused
23 themselves from deliberations and voting on the
24 motion. The Respondent's name is John Phillip Semmer,
25 LPN.]

1

2 MS. PACHTER SCHULDER:

3

4

5

Is there a motion to deny the Consent
Agreement in Case No. 18-51-006259 on
the grounds that it is too harsh?

6 MS. MALADY:

7

So moved.

8 MS. HERTZLER:

9

Second.

10 CHAIR COUGHLIN:

11

All those in favor? Opposed?

12

Abstentions?

13 [The motion carried unanimously.]

14

15 MS. PACHTER SCHULDER:

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Is there a motion to authorize Counsel
to prepare an Adjudication and Order in
the matter of Judith Frances Franciscus,
RN, Case No. 17-51-07171?

20 MS. MALADY:

21

So moved.

22 MS. HERTZLER:

23

Second.

24 CHAIR COUGHLIN:

25

All those in favor? Opposed?

1 Abstentions?

2 [The motion carried unanimously.]

3 ***

4 MS. PACHTER SCHULDER:

5 Is there a motion to modify the Final
6 Order in the matter of Pamela Getting
7 Stauffer, RN, at Case No. 16-51-14674,
8 consistent with the Board's discussion,
9 for which Kerns and Luchs are recused?

10 DR. KMETZ:

11 So moved.

12 MS. VINCENT:

13 Second.

14 CHAIR COUGHLIN:

15 All those in favor? Opposed?

16 Abstentions?

17 [The motion carried. Members Kerns and Luchs recused
18 themselves from deliberations and voting on the
19 motion.]

20 ***

21 MS. PACHTER SCHULDER:

22 In the matter of Deanna Matty, is there
23 a motion to deny the Application for
24 Reactivation on the grounds the licensee
25 has not provided sufficient evidence of

1 continued competence?

2 DR. KMETZ:

3 So moved.

4 DR. KOVACH:

5 Second.

6 CHAIR COUGHLIN:

7 All those in favor? Opposed?

8 Abstentions?

9 [The motion carried unanimously.]

10 ***

11 MS. PACHTER SCHULDER:

12 Is there a motion to enter default, deem
13 facts admitted, and authorize Counsel to
14 prepare an Adjudication and Order in the
15 matter of Samantha Kitner, RN, Case No.
16 17-51-08852, for which member Kerns is
17 recused?

18 MS. LUCHS:

19 So moved.

20 DR. KMETZ:

21 Second.

22 CHAIR COUGHLIN:

23 All those in favor? Opposed?

24 Abstentions?

25 [The motion carried. Member Kerns recused herself

1 from deliberations and voting on the motion.]

2

3 MS. PACHTER SCHULDER:

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10 DR. KMETZ:

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12 MS. VINCENT:

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14 CHAIR COUGHLIN:

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17 [The motion carried unanimously.]

18

19 MS. PACHTER SCHULDER:

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Is there a motion to adopt the Hearing
Examiner Proposals for Zachary Lynn
Abbott, LPN, Case No. 18-51-006389;
Jessica M. Bindewald, LPN, Case No. 18-
51-005773; Susan E. Wilson, LPN, Case
No. 19-51-018528; and Jessica Lynn

1 Quercia, LPN, Case No. 18-51-009097?

2 DR. KOVACH:

3 So moved.

4 MS. VINCENT:

5 Second.

6 CHAIR COUGHLIN:

7 All those in favor? Opposed?

8 Abstentions?

9 [The motion carried unanimously.]

10 ***

11 MS. PACHTER SCHULDER:

12 Is there a motion to authorize Counsel
13 to prepare Adjudications and Orders in
14 the matters of Terri Cass Brown, RN,
15 Case No. 17-51-02609; Michael Anthony
16 Maciupa, RN, Case No. 18-51-011082; and
17 Stanley C. Martin Jr., RN, Case No. 18-
18 51-004782?

19 DR. KOVACH:

20 So moved.

21 MS. HERTZLER:

22 Second.

23 CHAIR COUGHLIN:

24 All those in favor? Opposed?

25 Abstentions?

1 [The motion carried unanimously.]

2 ***

3 MS. PACHTER SCHULDER:

4 Is there a motion to adopt and
5 substitute a Board Order in the matter
6 of Gina Andrews, Case No. 19-51-011883?

7 DR. KMETZ:

8 So moved.

9 DR. KOVACH:

10 Second.

11 CHAIR COUGHLIN:

12 All those in favor? Opposed?

13 Abstentions?

14 [The motion carried unanimously.]

15 ***

16 MS. PACHTER SCHULDER:

17 Is there a motion to adopt and correct
18 the Adjudication and Order in the matter
19 of Amy Michelle Murphy, RN, CRNP, Case
20 No. 19-51-017451?

21 DR. KMETZ:

22 So moved.

23 DR. KOVACH:

24 Second.

25 CHAIR COUGHLIN:

1 All those in favor? Opposed?

2 Abstentions?

3 [The motion carried unanimously.]

4 ***

5 MS. PACHTER SCHULDER:

6 Is there a motion to adopt the Draft
7 Adjudications and Orders for which there
8 are no recusals of Bronwen Evelin Glimm,
9 LPN, Case No. 18-51-03566; Myrna Schenck
10 Green, RN, Case No. 19-51-016925; Sue
11 Anne Holibaugh, LPN, Case No. 18-51-
12 009407; Rachel Marie Weiss, RN, Case No.
13 18-51-02930; and Stacy Lynn Rivera, LPN,
14 Case No. 18-51-008139?

15 DR. KMETZ:

16 So moved.

17 DR. KOVACH:

18 Second.

19 CHAIR COUGHLIN:

20 All those in favor? Opposed?

21 Abstentions?

22 [The motion carried unanimously.]

23 ***

24 MS. PACHTER SCHULDER:

25 Is there a motion to adopt the Draft

1 Adjudications and Orders in the matters
2 of Moniekia D. Erdley, LPN, Case No. 19-
3 51-004853; Heather Lynn Hummel, LPN,
4 Case No. 17-51-05563, for which members
5 Kerns and Luchs are recused?

6 DR. KMETZ:

7 So moved.

8 MS. HERTZLER:

9 Second.

10 CHAIR COUGHLIN:

11 All those in favor? Opposed?

12 Abstentions?

13 [The motion carried. Members Kerns and Luchs recused
14 themselves from deliberations and voting on the
15 motion.]

16 ***

17 MS. PACHTER SCHULDER:

18 Is there a motion to adopt the Draft
19 Adjudication and Order for Mark Fabian,
20 LPN, Case No. 19-51-009012, for which
21 members Hertzler and Kerns are recused?

22 DR. KMETZ:

23 So moved.

24 MS. VINCENT:

25 Second.

1 CHAIR COUGHLIN:

2 All those in favor? Opposed?

3 Abstentions?

4 [The motion carried. Members Hertzler and Kerns
5 recused themselves from deliberations and voting on
6 the motion.]

7 ***

8 CHAIR COUGHLIN:

9 Do I have a motion to adjourn the
10 meeting?

11 [There was no motion or second.]

12 ***

13 [There being no further business, the State Board of
14 Nursing Meeting adjourned at 12:57 p.m.]

15 ***

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Nursing meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Nursing meeting.



Evan Bingaman,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF NURSING
REFERENCE INDEX

October 23, 2020

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TIME	AGENDA
9:17	Official Call to Order
9:17	Roll Call
9:18	Introductions
9:23	Approval of Minutes
9:25	Report of Prosecutorial Division
9:32	Regulation Update
9:44	Pennsylvania Legislative Update
9:52	Report of Board Chairperson
9:52	Report of Commissioner
9:55	Report of Committees
9:57	Report of Executive Secretary
10:04	Appointment - Cynthia K. Montgomery, Deputy Chief Counsel, and K. Kalonji Johnson, Commissioner, Bureau of Professional and Occupational Affairs
11:11	New Business
11:17	Executive Session
12:44	Return to Open Session
12:45	Motions
12:57	Adjournment