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## House Bill 1024: A Chronology

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## House Bill 1024: A Chronology

By CLARE HOUSEMAN, LESLIE HURT, LUCY SMITH and MICHELE ZIMMERMAN

*In speaking to those assembled for Legislative Day, Tim Oksman, lobbyist for HB1024 stated that the bill's passage against all odds was a tribute to the respect that the legislators have for the Nursing Profession. For persons interested in the political process surrounding HB1024 this chronology is written. If at times it seems repetitive, it's because the process was. The same core group of people, give or take a couple, said the same things to different people over and over again. Perhaps it is important to emphasize both the frustration and necessity of this repetition and that patience is needed to succeed. In writing this chronology, we realize that we probably haven't told the whole story. We are, therefore, interested in hearing from others who may have been in private practice before or who know of information regarding this or previous attempts to achieve independent practice in the state. We would like to view the total process in addition to the one we remember.*

As early as 1977, clinical nurse specialists in psychiatric mental health nursing had been interested in independent practice in Virginia. As individuals they had requested information from the state board regarding the legality of such practice. In 1977, Ellen Andruzzi had received a letter from the State Board of Nursing indicating that nurses prepared at the Master's level in psychiatric mental health nursing were able to practice counseling and therapy without further certification in the state. However, other inquiries by phone and letter yielded conflicting responses from the state board. It became clear that varying interpretations could be derived from the existing Nurse Practice Act. The official opinion by the state board during this time was that while the law clearly did not indicate whether such practice was legal or illegal, that in Virginia, the conservative approach was usually upheld which requires specific legislation to make practice legal. On the other hand, it was indicated that the state board was not searching out individuals in independent practice, but if

complaints did arise, the law might not support such practice. Within this context, nurses felt vulnerable legally, professionally, and economically when they considered private practice as an option.

Well aware of the uncertainties surrounding private practice at that time, Hilda Woodby and Clare Houseman went into private practice in 1983. Neither one knew about the other because such events were unaccompanied by fanfare. The reason that publicity was not sought was that Virginia's psychiatric clinical nurse specialists knew that there had been several complaints to the State Board of Nursing regarding the legality of independent practice and at least one clinical nurse specialist had moved her practice out of Virginia when investigations began. It is possible that other psychiatric nurses were also involved in private practice at the time, but the felt need for a low profile conflicted with the usual tendency to network and kept them from knowing about each other.

In 1984 Michele Zimmerman, who had herself recently gone into private practice, attended the 6th Southeastern Conference of Clinical Nurse Specialists in Tampa, Florida. It was there that a contingent from Virginia met informally to discuss issues and problems. Sue Parcell, a graduate student at the time, became enthused with the idea of private practice and decided to begin a full time practice when she completed her program.

Members of the VNA Psychiatric/Mental Health PPG who were ANA certified psychiatric clinical nurse specialists attempted in 1985 to obtain a definitive stand from the state board re-

garding the legality of independent practice. In September and November of 1985, representatives of VNA presented testimony to the State Board of Nursing concerning this issue. Responding in early 1986, the legal council to the board was unable to clarify this issue further, based on the then current Nurse Practice Act.

A meeting to look at mechanisms for legitimizing independent practice for clinical nurse specialists in psychiatric mental health nursing was held at a Richmond library in the summer of 1986 in order to determine how much interest there was in the issue. Invitations had been sent to all certified clinical nurse specialists in the state. Nine clinical nurse specialists attended. Issues related to the outcome of the state board's evaluation of nursing practice in the state was discussed.

The psychiatric clinical nurse specialists members of VNA who had attended the meeting, requested that VNA arrange a consultation with ANA to assist in strategy planning. ANA had helped nurses in other states to obtain third party reimbursement and remove other impediments to independent practice. It was hoped that they could be of assistance in Virginia.

In late 1986, ANA recommended that VNA move forward by officially contacting Blue Cross Blue Shield and other insurance companies to investigate the procedures for direct reimbursement. Jeanette Kissinger, President, and Leslie Hurt, Commissioner of Professional Practice, Lucy Smith and Sue Parcell met with representatives of Blue Cross Blue Shield in January 1987. In April of 1987, Blue Cross Blue Shield

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denied the request for direct reimbursement of psychiatric clinical nurse specialists.

That month, Lucy Smith sent invitations to certified psychiatric clinical nurse specialists in the state to a meeting held at the Psychiatric Institute of Richmond. Leslie Hurt, the Commissioner of Professional Practice of the Virginia Nurses' Association also attended. Between Lucy's expert management of the group, Leslie's liaison with VNA, as well as the high level of energy in the group, it was clear to everyone that things would happen. This informal group which would become the VNA Task Force began meeting on a regular monthly basis and the strategy for what would result in the passage of HB1024 began to take shape.

Because it was felt that the group would benefit from affiliation with a recognized nursing organization, inquiries were made with VNA to become a task force of the Council of Clinical Nurse Specialists. By becoming a task force, the group was able to continue to raise and handle its own money and to function autonomously. At the same time, it gained additional human resources, and the status and clout of having VNA behind it.

Simultaneously, the Health Regulatory Board, as a result of their study of nursing practice in the state, drafted recommendations for changes in the law which addressed specialty practice within the Nurse Practice Act. A Lack of agreement between the Health Regulatory Board and organized nursing regarding the definition of specialty practice resulted in the withdrawal of the recommendation to define specialty practice from the proposed revisions to the Nurse Practice Act at that time.

At the summer, 1987, task force meetings, much discussion regarding the pros and cons of the definition of specialty practice and how it would impact upon the group's goals took place. The Task Force questioned whether to go forward with efforts to clarify independent practice in light of the disagreement between these major factions important to the success of the cause. The group decided to address the issue by writing a letter to the Health Regulatory Board reinforcing their efforts in behalf of advanced specialty nursing practice and suggesting a substitute paragraph that might be acceptable to all parties. This effort failed to result in the revised paragraph. The task force, however, had voted to press on whatever the outcome of the conflict over

the paragraph, believing that it would be a mistake to put the idea on hold until optimal conditions developed.

Because psychologists, social workers and licensed professional counselors had all utilized an insurance law to mandate their right to independent reimbursable practice, it was decided that this would be the route that the psychiatric clinical nurse specialists would also take. The search for a lobbyist began in 1987 and Timothy Oksman was interviewed. Mr. Oksman had stated that the cost of such an undertaking would probably range between eight and twelve thousand dollars depending on the strength of the opposition. A group of about fifteen attenders at a late summer, 1987, meeting agreed to raise the money and shortly thereafter hired Mr. Oksman.

During the summer and fall of 1987, the organization of the task force itself began taking shape. The group had functioned well without a formal hierarchy of officers and had thrived on a consensus approach to decision making. Individuals volunteered to do whatever tasks needed doing. It was, therefore, decided to continue with a network model with shared decision making power. Consensus was reached that Lucy Smith and Leslie Hurt be the main contacts with Tim Oksman, and that Jackie Jones would handle the group's money. Regional contact persons were identified whose goal was to gain support of the previously uninvolved psychiatric clinical nurse specialists in their part of the state. The contact persons were: Sue Parcell, Southwest Virginia; Hampton Maureen McCracken, Northern Virginia; Lynn Kopeski, Central Virginia; Lucy Orr on the Peninsula and Pat Sanger from South Hampton Roads. These individuals played the important role of keeping communications open by local networking and a telephone tree. During the process, more often than not, responses needed to be obtained immediately from everyone involved in the process. The contact persons had to drop whatever they were doing and call about fifteen people. They also centralized fund raising at the grass roots level and delegated responsibility for contacting local legislators, so that an organized, coordinate effort could be made.

The January, 1988, General Assembly Session was fast approaching. Although various delegates expressed support for the bill, the group had difficulty finding a chief patron in the House of Delegates. Right before the

deadline for initiating legislation, Delegate Vincent Callahan, (R-McLean), was tapped by the Northern Virginia contingent and agreed to sponsor the bill, HB1024.

Regional contact persons went to work and House of Delegate members were contacted by individuals and groups to enlist support for HB1024. Members of the Corporations Insurance and Banking Committee were especially targeted because they would be the ones who would vote first to determine whether or not the bill should be reported to the House floor. Tim Oksman and selected representatives from VNA and the task force all testified at the hearing. HB1024 passed the committee with a comfortable margin and the House of Delegates by a vote of 97 to 2. The bill's ease of passage through the House of Delegates seemed to come as a surprise to interest groups who might be expected to oppose the bill, namely: The Psychological Association, The Manufacturers Association, The Psychiatric Society, The Medical Society and Blue Cross Blue Shield. On one occasion it was verbalized that the opposition was expecting the dissension generally present among diverse interest groups in nursing to defeat their own initiative. When it appeared that it was not to be the case this time, the lobbyists employed by the opposition went into action. From then on, each testimony to a committee or contact with a legislator by a nurse was counteracted by these lobbyists.

The bill was then scheduled to go to the Senate via the Commerce and Labor Committee. Clinical nurse specialists contacted senators to inform them about HB1024. At the same time, in an ever-widening circle, other nurses were getting involved. Barbara Whitmeyer contacted Senator Schewel, (D-Lynchburg), Helen Bunch contacted Senator Fears (D-Eastern Shore), Laura Bryant contacted Bobby Scott (D-Newport News).

Senator Fears, Chairman of the Commerce and Labor Committee determined that controversial bills should be heard first in subcommittee. HB1024 had been labeled a controversial bill. Clinical nurse specialists and VNA representatives showed up in the subcommittee room to face their opposition, nearly a dozen lobbyists from Blue Cross Blue Shield, The Virginia Medical Society, The Virginia Psychiatric Society and the Virginia Psychological Association. It quickly became apparent that those in opposition were either



seriously uninformed or deliberately chose to ignore both the current practice of nursing in the state, and the educational preparation and credentialing process of clinical nurse specialists. In a refrain that was to become redundant, the opposing lobbyists insisted that nursing professionals are supervised by physicians; that any nurse can claim the title of clinical nurse specialist and that there is no difference between nurse practitioners and clinical nurse specialists. Tim Oksman, Lucy Smith, Leslie Hurt, Michele Zimmerman and Sue Parcell testified at the meeting. Their testimony included information about the education of psychiatric clinical nurse specialists including their preparation to provide individual, group and family psychotherapy. They also spoke about ANA certification procedures which assured the consumers a high level of nursing expertise. Finally, nurses already in private practice described their practice and the numbers and kinds of clients that they had cared for safely over a significant number of years. A heated discussion ensued for the better part of the afternoon. The subcommittee finally voted to report the bill to the full committee with a 2 to 1 vote.

The bill then went to the full committee. Barbara Munjas from VCU/ MCV provided information regarding the educational preparation of clinical nurse specialists. Sue Parcell described her independent practice in Southwest Virginia, where she was the only qualified mental health provider for children in a large geographic area. Tim Oksman and representatives from the task force and VNA also spoke on issues supporting the bill. The point was made that the current procedure of indirectly reimbursing clinical nurse specialists meant that they had to be employed by doctors who then kept 40 to 60 % of the fees. It was suggested that this mandated fee splitting resulted in more costly care for consumers as well as unnecessary restrictions for clinical nurse specialists who do not require medical supervision to practice. The insurance lobbyists who numbered about eight at the hearing and the Medical Society's lobbyist continued to insist that nurses must be supervised by physicians and again a heated debate ensued. The issue of the lack of legal regulation of clinical nurse specialists was introduced by the opposition and Bernard Henderson, Director, Department of Health Regulatory Boards, was questioned regarding this. He answered that there existed no

mechanism at that time legally recognizing clinical nurse specialist practice in this state. The Senate subcommittee then asked Mr. Henderson to study the issue and produce a report for the following year. Thus, rather than being killed, the bill was held over for the 1989 session of the General Assembly.

Lack of experience in the political arena coupled with disappointment and exhaustion with the process led a few task force members to engage in inappropriate public expressions of frustration towards key political figures following the proceedings. This necessitated phone calls and letters of apology for these breaches of political protocol and etiquette.

In order to handle these feelings, a debriefing meeting was held at which time the task force privately expressed their frustration. Members were pleased that so much had been accomplished, but disappointment also arose that so much had been put into this effort and yet the goal had still not been achieved. This meeting was spent cursing and complaining, at one another, at people who weren't there, at everyone in general. The task force experienced this as its lowest point and anxieties were expressed as to whether it would be able to recreate the emotional commitment necessary to see the bill through. The group experienced a considerable lack of energy over the summer as if tired, depressed, grieving. Nevertheless, when time came for testimony to be given to the Council of Health Regulatory Boards regarding Mr Henderson's study Sherrill Marshall, Clare Houseman, Lucy Smith, Michele Zimmerman, Sue Parcell and Leslie Hurt were among

the members present to testify. Likewise other persons who were not members of the task force spoke in support of the cause, individuals such as Barbara Munjas of VCU/MCV, Terry Tempkin, representing the nurse practitioners and John Tavenner, M.D. of the Metropolitan Clinic of Counseling.

The result of the Health Regulatory Board's study were not made public until January, 1989. Nevertheless, being optimistic about a positive legal interpretation and having worked through the majority of the feelings regarding the previous outcome, the task force regained energy and in the early fall of 1988, turned to the work at hand—strategizing for the 1989 General Assembly Session.

The first issue was money. Ten thousand dollars had been paid to the lobbyist the previous year. Eight thousand dollars had been raised by asking psychiatric clinical nurse specialists in the state to tithe, and numerous fund raising efforts organized by regional contacts, by district VNA meetings and by a raffle held at the 9th Southeastern Conference of Clinical Specialists in Psychiatric and Mental Health Nursing in Norfolk in Fall, 1987, and by donations collected at VNA Convention and Legislative Day. In addition, VNA loaned the group \$2,000. VNA's forgiveness of that loan allowed the task force to begin the next year's political onslaught debt free.

Several plans were developed to raise money for the coming year's lobbying. A workshop in Williamsburg was organized by Michele Zimmerman and Hilda Woodby, both experienced continuing education providers. Staff from

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the Metropolitan Clinic of Counseling provided the teaching expertise and seventy people paid to learn brief psychotherapy methods. The workshop earned \$2000 which was almost the exact amount needed to pay the lobbyist bill for that month. The Virginia Society of Professional Nurses lead a successful challenge to the member groups of the Alliance to raise one dollar for each member of each organization. Again clinical nurse specialists were asked to tithe and VNA district organizations contributed. When the time for the General Assembly Session drew near, it was agreed that the focus needed to be on working with legislators and that we would address the concern about how to pay off the debts we would incur after the session.

In December, 1988, efforts began in earnest to again contact members of the Senate Commerce and Labor Committee about HB1024. By this time, Lucy Smith had been elected VNA's Commissioner of Professional Practice and continued Leslie Hurt's liaison activities between the task force and the VNA board. The bill which had started out as a concern of one small group was a top priority of organized nursing in the state, backed fully by VNA. Momentum in support of the bill was building. Senators around the state made solid commitments to vote for what was perceived to be a consumer oriented bill. In January, Tim Oksman and selected members of the task force and VNA testified at the Senate Commerce and Labor Committee hearing. Bernard Henderson provided evidence from his report that certain nursing functions are legally performed independent of physician supervision in the State of Virginia. Mr Oksman pointed out amendments which had been added to the bill that would enable the state board to regulate nurses in advanced practice. Delegate Callahan strongly presented testimony in favor of the bill. The Medical Society withdrew its opposition when the issue regarding regulation of practitioners had been resolved but the insurance lobby remained opposed. After much debate, the Commerce and Labor Committee voted to report HB1024 favorably.

Ordinarily, the bill would have gone to the Senate floor within a few days, but powerful members of the Commerce and Labor committee made a decision which set up another obstacle, and referred the bill to a second committee, that of Health and Education. Seated on this committee were some of

the most powerful senators, many of whom were opposed to HB1024. At the time this seemed like a tremendous hurdle to overcome, but in retrospect the additional time provided members of the task force with the opportunity to make more sojourns to the General Assembly to contact members of this new committee in an effort to obtain their favorable votes. Thus more senators were educated as to the bill's desirability in preparation for the time it would reach the Senate floor. Other nurses in the group and outside the group also contacted their legislators. Barbara Whitmeyer and the faculty at Lynchburg College rallied to contact their senator, and Vida Huber and the faculty at James Madison worked on theirs. After more discussion and testimony, HB1024 squeaked by the Health and Education Committee. The lack of a strong majority in favor of the bill in this committee meant that a floor fight would occur when it reached the full Senate. Each individual senator's vote would be important.

Ordinarily, the bill would have gone to the senate floor by Friday of that week, but since that was the day of the presidential inauguration, the legislative schedule was cut back. This was fortuitous in that it provided an additional weekend to lobby for HB1024. That weekend, the nursing community and other non-nurse supporters, in Charlottesville, turned Senator Michie's (D-Charlottesville) vote from a negative on the Health and Education Committee to a positive on the Senate floor. That inaugural weekend was electric for nursing as nurses and their supporters all over the state contacted senators by telegram, telephone, and by appointment in their senate offices, asking them to vote in favor of the bill.

On January 23, 1989, the day the bill was scheduled to come to the floor of the Senate, a small group of task force members arrived early to speak with senators whose votes had been negative or who were uncertain. They were encouraged by the notable absence of the insurance lobbyists. Having learned the importance of the informational network in the General Assembly, they spoke with the psychology lobbyist who stated that the insurance people had given up. When the bill finally reached the senate floor, Senators Robert Scott (D-Newport News), Granger McFarland (D-Roanoke) and Moody Stallings (D-Virginia Beach) spoke for the bill, while Senators Fears (D-Eastern Shore), Walker (D-Nor-

folk), Clancy Holland (D-Virginia Beach), Emick (D-Fincastle) and Gray (D-Waverly) spoke against it. The bill passed the Senate by a 23 to 15 vote. After the vote, astute General Assembly watchers indicated that this was an unusual outcome. Usually in cases such as HB1024, when the more powerful senators are opposed to a bill, it is given little chance of success. In this instance, the relentless one to one contact to elicit the support of individual senators paid off. In addition, the high esteem in which the nursing profession is held by the legislators and their constituents cannot be underestimated as a powerful force in obtaining legislation on behalf of the profession.

Because HB1024 had been amended to include the state board's regulation of advanced practice in psychiatric nursing, the amended bill needed to go back through the House of Delegates and did so unceremoniously on January 25, 1989, passing with a 99 to 1 vote. Governor Baliles signed the bill into law on February 9, 1989. It went into effect on July 1, 1989. The Board of Nursing is now in the process of determining a mechanism to recognize clinical nurse specialist practice in the state and will approve programs which prepare them.

In March, when the financial situation was again scheduled for review, the news was good. Out of the two year total of approximately \$14,000 which had been billed by the lobbyist, only \$50 remained outstanding. While no money is now owed, the task force does, however, remain indebted to VNA, other nursing organizations and the legions of nurses across Virginia and the Southeastern states that provided money, political contacts and moral support so that what needed to be done to achieve a vision of economic authority for nursing could be accomplished. These nurses contributed, believing that a victory for one group of nurses is a victory for all nurses. The unity of spirit and goals among nurses was refreshing and exhilarating. The victory will have far reaching implications in terms of recruitment to the profession, encouragement of specialty preparation at the graduate level and for increased access to providers of nursing services by consumers. To see nursing speak with one voice and win against such powerful, well funded opposition bodes well for the future. The political power of nurses is indeed alive and well in the Commonwealth of Virginia.