

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

June 19, 2014

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Mackler called the meeting of the Board to order at 8:39 A.M.

ROLL CALL: Ms. Dundon called roll. A quorum was established.

MEMBERS PRESENT: Stuart Mackler, MD, President
Wayne Reynolds, DO, Vice-President
Kenneth Walker, MD, Secretary-Treasurer
Syed Ali, MD
Barbara Allison-Bryan, MD
Randy Clements, DPM
Lori Conklin, MD
Deborah DeMoss Fonseca
Frazier Frantz, MD
David Giammittorio, MD
Robert Hickman, MD
Lorri Kleine, JD
Kevin O'Connor, MD
Ray Tuck, DC

MEMBERS ABSENT: Siobhan Dunnavant, MD
Kamlesh Dave, MD
Irina Farquhar, PhD

STAFF PRESENT: William L. Harp, MD, Executive Director
Barbara Matusiak, MD, Medical Review Coordinator
Alan Heaberlin, Deputy Executive Director, Licensing
Colanthia Morton Opher, Operations Manager
Marilyn Dundon, Discipline Support Specialist
David E. Brown, DC, DHP Director
Jaime Hoyle, JD, DHP Chief Deputy Director
Elaine Yeatts, DHP Senior Policy Analyst
Erin Barrett, JD, Assistant Attorney General

OTHERS PRESENT: Mike Jurgensen, MSV
Jerry Canaan, MSV/HDJN
Carol Russek, JD

EMERGENCY EGRESS PROCEDURES

Dr. Reynolds read the emergency egress procedures for Conference Room 2.

APPROVAL OF THE February 20, 2014 MINUTES

Dr. O'Connor moved to accept the minutes of February 20, 2014. The motion was seconded and carried unanimously.

MOMENT OF SILENCE

The Board observed a moment of silence in memory of citizen board member Jane Maddux.

APPROVAL OF THE AGENDA

Dr. Harp requested that the agenda be amended to include discussion of test results for occupational therapy licensed applicants and the presentation of a summary suspension by James Schliessmann, AAG.

Dr. Walker moved to accept the agenda as amended. The motion was seconded and carried unanimously.

INTRODUCTION OF CHIEF DEPUTY DIRECTOR – JAIME HOYLE, JD

Dr. Harp briefly introduced Jaime Hoyle and then asked Dr. Brown to make more detailed comments. Dr. Brown, DHP Director, introduced himself to the Board and advised that in 1997 he was a member of the Board of Medicine and it's good to be back. He said that it has been very busy since his arrival, and that one of the smartest things he's done was to hire Jaime Hoyle as the Chief Deputy Director. Ms. Hoyle comes to DHP from the Joint Commission on Health Care and has a lot of familiarity with the issues that DHP and the boards face.

Ms. Hoyle said that she looks forward to sharing her knowledge, experience and enthusiasm with the Board.

PUBLIC COMMENT ON AGENDA ITEMS

Dr. Mackler acknowledged and welcomed the guests that were present.

There was no public comment on agenda items.

NEW BUSINESS

DHP DIRECTOR'S REPORT

Dr. Brown reported that the agency-wide training event held May 14 -15 was very informative and well-received. It served as an opportunity to bring the field investigators in-house and conjunctively discuss ways to work as effectively as possible. He said the next new Board member training is slated to be held this fall and could potentially include 180+ gubernatorial appointees.

Dr. Brown mentioned some of the key issues at the agency, including being one of five states participating in studying licensure for veterans returning to civilian life. He stated that strategies are being developed to allow boards to recognize and use a veteran's military training and expertise to satisfy some of the requirements for licensure.

Dr. Brown then offered his thanks to the Board members for their time, dedication and the work they were doing to protect the public.

REPORT OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT'S REPORT

Dr. Mackler announced that he, along with Dr. Reynolds, attended FSMB's annual meeting in Denver. Dr. Mackler was appointed to the Education Committee. Dr. Reynolds was re-appointed to the Editorial Committee. Mr. Heretick, past Virginia Board President, was appointed to the Executive Committee of the FSMB Board of Directors. Valerie Hoffman, DC, immediate past Virginia Board President, ran for the FSMB Board of Directors as a citizen member, but unfortunately lost by one of the smallest margins ever recorded.

Dr. Mackler announced with sadness that Dr. Hickman's term will be expiring on June 30th and presented him with a plaque commemorating his service to the Board. Dr. Mackler said that Dr. Hickman demonstrated the three most important attributes of a Board member: 1) he always shows up, 2) he's always well prepared, and 3) he takes what he learns and applies it at his next hearing.

VICE-PRESIDENT'S REPORT

Dr. Reynolds advised that the FSMB meeting went well, and Virginia was well-represented.

Dr. Walker asked for a point of clarification regarding the guidelines on how many Board

members can attend professional meetings.

Dr. Brown commented that he believes it is important for members of all DHP boards to attend meetings that will make them more competent and efficient in their roles at DHP. He also believes that Board members taking on leadership roles in national organizations is a good way to build a stronger Board of Medicine. While he is not the final level of approval for national meetings, he will serve as an advocate if the travel appears justified.

SECRETARY-TREASURER'S REPORT

Dr. Walker had no report.

EXECUTIVE DIRECTOR'S REPORT

- Revenue and Expenditures Report

Dr. Harp briefly reviewed the revenue and expenditures report. The Board's cash on hand as of December 31, 2013 was \$6.25 million. Dr. Harp highlighted expenditures allocated for Data, Enforcement, Administrative Proceedings and services from the Attorney General.

This report was for informational purposes only and did not require any action.

- Enforcement and APD Hours

Dr. Harp reviewed the Board's Administrative Proceedings Division hours and Enforcement Division hours for July 2013 - April 2014.

- Health Practitioners' Monitoring Program Statistics

Dr. Harp noted the total number of Medicine participants in the program to be 114.

- Letter of Response to Dr. Gormley

Dr. Harp referred to the correspondence from William T. Gormley, MD, Chief Medical Examiner, in which Dr. Gormley asked the Board to require that health care providers writing Schedule II-IV drugs register for and use Virginia's Prescription Monitoring Program as a condition of licensure. The response provided to Dr. Gormley advises him of HB1249 which will require all prescribers licensed to treat humans to register with the Prescription Monitoring Program by July 1, 2015.

Dr. Brown said that the use of the PMP by so many practitioners and pharmacists has resulted in an overall decrease in overprescribing.

- Ms. Stone – Petition for Rule-Making Response

Dr. Harp referred to the correspondence from Leslie Stone requesting a withdrawal of her Petition

for Rule-Making. Ms. Stone asked to withdraw because the Advisory Board on Acupuncture discussed and suggested a more comprehensive regulatory change to allow graduates of programs in ACAOM candidacy be licensed, which also addressed her concern.

- Ms. Salomon – Letter Regarding Overuse of Antibiotics and Responses

Dr. Harp advised that Ms. Salomon communicated to the Board of Pharmacy her concern about the overuse of antibiotics to treat acute sinusitis and requested yearly prescribing education for practitioners.

Ms. Salomon was encouraged to contact her legislative representatives as any limitations placed on prescribing authority would require a change in the law.

- Ad Hoc on Telemedicine

Dr. Harp reminded the members that in February they voted to establish an Ad Hoc on Telemedicine. He advised that he and Dr. O'Connor attended C-Tel's conference in April and that this issue is moving very rapidly.

Dr. Harp said to expect legislation in the 2015 Session of the General Assembly and suggested that the development of a guidance document may be a useful tool for legislators as they consider the issues involved in the practice of telemedicine.

COMMITTEE AND ADVISORY BOARD REPORTS

Dr. Mackler reviewed the Committee assignments.

Dr. Reynolds moved to accept the committee reports en bloc. The motion was seconded and carried unanimously.

OTHER REPORTS

Assistant Attorney General

Ms. Barrett provided an update on the two ongoing suits against the Board.

Ms. Barrett asked that members forward to her or to Board staff any correspondence they receive in regards to these suits.

Board of Health Professions

There was no report.

Podiatry Report

Dr. Clements had no report.

Chiropractic Report

Dr. Tuck had no report.

Committee of the Joint Boards of Nursing and Medicine

There was no report.

Dr. Reynolds moved to accept the reports as presented. The motion was seconded and carried unanimously.

REGULATORY AND LEGISLATIVE ISSUES

- Chart of Regulatory Actions

Ms. Yeatts provided an update on the status of pending Board of Medicine regulations. Dr. Jennifer Lee, Deputy Secretary of Health and Human Resources and former Board of Medicine member, will be one of DHP's contacts in the Secretary's office regarding regulations.

This report was for informational purposes only and did not require any action by the Board.

- Report from the 2014 General Assembly

Ms. Yeatts presented an updated report on the 2014 Session of the General Assembly noting those bills that affected the professions regulated by the Board. Ms. Yeatts highlighted the "Update of Physician Workforce Shortage" (House Document 2) and a letter of request from the Chair of the Joint Commission on Health Care. The request is that DHP convene a workgroup to consider a mid-level provider license for persons that are licensed to practice medicine in another country but do not meet Virginia's requirements for licensure. The workgroup is also asked to consider a mid-level license for medical school graduates that do not match or have a year of postgraduate training.

Ms. Yeatts advised that a representative from the Board of Medicine is to be included on that workgroup.

This report was for informational purposes only and did not require any action.

- Response to Petition for Rule-Making

Ms. Yeatts reviewed Ms. Cressel's petition for rule-making in which she asks that 18VAC85-20-90-Pharmacotherapy for Weight Loss be amended to allow nurse practitioners to prescribe without the patient first being seen by a physician.

Dr. Reynolds moved to amend 18VAC85-20-90-Pharmacotherapy for Weight Loss by fast-track action to include nurse practitioners and physician assistants under their collaborative agreements with physicians to prescribe all II-VI prescriptive medications. Dr. Clements seconded the motion and the floor was opened for discussion.

There was some concern expressed about this being an isolated drug regimen and the Board's micromanagement of such, also what doors may be opened by a singular voice.

Dr. Frantz said that the regulation is dated. There are more medications being used for weight loss today and the regulations at issue are very narrow. He stated that both nurse practitioners and physician assistants are qualified to write these drugs.

After discussion, the motion carried; 11 to 3 with Dr. O'Connor, Dr. Frantz, and Ms. DeMoss Fonseca opposing.

End of USMLE Step 3 Sponsorship

Dr. Harp advised that the USMLE program will discontinue state medical board sponsorship for Step 3 on July 14, 2014. He drew the Board's attention to the contract between the Board and the USMLE program which would essentially be rendered ineffective by the decision to end state board sponsorship. The Board was asked to agree by vote that the contract be dissolved without reservation and without further action necessary.

Dr. Hickman moved to allow the agreement between USMLE and the Board of Medicine entered into February 7, 2003 to lapse. The motion was seconded and carried unanimously.

Guidance Document 85-9

Dr. Harp reminded the Board that at its October 24, 2013 meeting, it approved the development of a guidance document that states the Board's policy on USMLE Step attempts.

The Board unanimously reaffirmed the position of the guidance document.

Draft of Interstate Medical Licensure Compact

Dr. Harp noted that Dr. Chaudhry recently distributed a revised draft for the Interstate Medical Licensure Compact and reviewed the eight consensus principles that underlie the compact.

After a brief discussion, Dr. Reynolds moved to refer further discussion of the compact to the Legislative Committee. The motion was seconded and carried unanimously.

LICENSING REPORT

- Licensee Count

Mr. Heaberlin provided the licensee count for this fiscal year. In addition, he updated the Board about the start up of VeriDoc on April 18th and said that VeriDoc had processed approximately 200 verifications by the second week of June.

- Credentials Committee Business Meeting

Mr. Heaberlin advised that there was a need to have a meeting of the Credentials Committee for the purpose of discussing regulations and licensure requirements. July 23rd is the proposed date. The recommendations of the Credentials Committee will be presented to the Executive Committee on August 1.

Mr. Heaberlin also advised that staff is working on changes to other processes for the sake of efficiency, one being address changes. With the blessing of the Board, staff will require that address changes be submitted electronically directly from the practitioner.

Dr. Hickman, current Chair of the Credentials Committee, encouraged the business meeting stating that review of the regulations would benefit the licensing process and also the special conferences with applicants.

- Chapter 252 – Act to amend and reenact §54.1-2956.5 of the Code of Virginia, relating to occupational therapy practice as therapist applicant or therapist assistant applicant

Mr. Heaberlin suggested that 18VAC85-80-45 Practice by a Graduate Awaiting Examination Results be amended to mirror the change made in the Code of Virginia.

Dr. Ali moved that 18VAC85-80-45 be amended to reflect the change made to the referenced Code. The motion was seconded and carried unanimously.

DISCIPLINE REPORT

In Ms. Deschenes' absence, Dr. Harp reviewed the cases open as of June 6th. Dr. Harp expressed his thanks to Dr. Matusiak and the Board members for staying ahead of the curve by closing more cases than received.

NOMINATING COMMITTEE REPORT

Dr. Hickman announced the slate of officers. Wayne Reynolds, DO for President, Kenneth Walker, MD for Vice-President, and Barbara Allison-Bryan, MD for Secretary/Treasurer.

Dr. Mackler opened the floor for any other nominations. Hearing none, the floor was closed.

Dr. O'Connor moved to accept the slate as presented. The motion was seconded and carried unanimously.

The Board called for a break at 10:27 a.m., the meeting resumed at 10:40 a.m.

SUMMARY SUSPENSION PROCEEDINGS

Pursuant to Section 54.1-2408.1 of the Code of Virginia, a quorum of the Virginia Board of Medicine met to receive and act upon information indicating that the following practitioner may have violated certain laws and regulations relating to the practice of medicine in the Commonwealth of Virginia. Pursuant to its authority under Section 54.1-2408.1 of the Code, the Board concluded that a substantial danger to the public health or safety warrants suspension of the license to practice medicine and surgery in the Commonwealth of Virginia for the following practitioner:

The case of Dwight Bailey, MD was presented by James Schliessmann, AAG and Tracy Robinson. Dr. Reynolds moved to summarily suspend; the motion was seconded by Dr. O'Connor. The vote was unanimous.

2015 PROPOSED MEETING DATES

Dr. Mackler noted the proposed meeting dates of 2015 and asked about any major conflicts.

No major conflicts were noted.

REMINDERS PAGE

Travel vouchers for today's meeting should be submitted no later than March 24, 2014.

CREDENTIALS COMMITTEE RECOMMENDATION

Mr. Heaberlin provided the Recommendation of the Credentials Committee for an applicant seen by the Committee on March 19, 2014. Mr. Heaberlin advised that the applicant is asking the Board to accept his withdrawal and provided a letter from the applicant for the Board's review.

Dr. Walker moved to deny the request to withdraw; Dr. Allison-Bryan seconded. The motion passed unanimously.

Dr. Reynolds moved to accept the Credentials Committee's recommendation to deny a license to this applicant; Dr. Giammittorio seconded. The motion passed unanimously.

PASSING OF THE GAVEL

Dr. Mackler said that it has been a pleasure to work with Dr. Harp and staff and encouraged all to continue their good work.

ANNOUNCEMENTS

There were no announcements.

Adjournment: With no other business to conduct, the meeting adjourned at 11:00 a.m.

Stuart Mackler, M.D.
President, Chair

William L. Harp, M.D.
Executive Director

Colanithia M. Opher
Recording Secretary