

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

October 20, 2016

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Allison-Bryan called the meeting of the Board to order at 8:40 AM.

ROLL CALL: Ms. Opher called the roll. A quorum was established.

MEMBERS PRESENT: Barbara Allison-Bryan, MD, President
Kevin O'Connor, MD, Vice-President
Ray Tuck, DC, Secretary-Treasurer
Syed Ali, MD
David Archer, MD
Randy Clements, DPM
Lori Conklin, MD
Alvin Edwards, MDiv, PhD
David Giammittorio, MD
The Honorable Jasmine Gore
Jane Hickey, JD
Isaac Koziol, MD
Maxine Lee, MD
Wayne Reynolds, DO
David Taminger, MD
Svinder Toor, MD
Kenneth Walker, MD

MEMBERS ABSENT: Deborah DeMoss Fonseca

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Executive Director, Discipline
Barbara Matusiak, MD, Medical Review Coordinator
Alan Heaberlin, Deputy Executive Director, Licensing
Colanithia Morton Opher, Operations Manager
Sherry Gibson, Administrative Assistant
Lisa Hahn, MPA, DHP Deputy Director
Elaine Yeatts, DHP Senior Policy Analyst
Erin Barrett, JD, Assistant Attorney General

OTHERS PRESENT: Tyler Cox, JD, MSV
Scott Johnson, JD, MSV
Lauren Bates-Rowe, MSV
Ralston King, MSV
Hunter Jamerson, JD, VOTA

Chrissy Vogeley, AOTA
Brent Rawlings, JD, VHHA
Pamela Grimm, JD

EMERGENCY EGRESS PROCEDURES

Dr. O'Connor provided the emergency egress procedures for Conference Room 2.

INTRODUCTION OF NEW BOARD MEMBERS

Dr. Allison-Bryan welcomed the Board's newest member, David Archer, MD who provided a brief overview of his medical career. The Board and staff welcomed him.

APPROVAL OF THE JUNE 16, 2016 MINUTES

Dr. Edwards moved to accept the minutes of June 16, 2016 as written. The motion was seconded and carried unanimously.

ADOPTION OF THE AGENDA

Dr. Toor moved to accept the agenda as presented. The motion was seconded and carried unanimously.

PUBLIC COMMENT ON AGENDA ITEMS

Scott Johnson, JD, representing MSV, stated that there was a lot of good work accomplished at the Credentials Committee meeting held the day before and advised that MSV was in full support of the recommendations from the Legislative Committee, including parity for International Medical Graduates, licensure by endorsement, and other administrative changes that will help streamline the licensure process. Mr. Johnson stated that MSV will carry bills for parity and endorsement in the 2017 General Assembly session.

Hunter Jamerson, JD, representing the Virginia Occupational Therapy Association (VOTA), shared concerns about the proposed change to 18VAC 85-80-71 stating that the change would outsource a duty of the Board to a third party and that is too much discretion for the Board to allow. Mr. Jamerson said that the new language would imply that the National Board for Certification in Occupational Therapy (NBCOT) was considered superior to other entities that offer continuing education courses. He asked that the Board send the recommendation back to the Advisory Board on Occupational Therapy for reconsideration.

Christie Vogeley, representing the American Occupational Therapy Association (AOTA), referred to AOTA's written objections (pages 121-129) to the proposed changes to 18VAC 85-80-71.

Dr. Harp asked Ms. Vogeley and Mr. Jamerson whether AOTA and VOTA considered NBCOT to be a sponsor or organization recognized by the profession; their response was yes.

DHP DIRECTOR'S REPORT

Ms. Hahn reminded the members of the upcoming Board member training scheduled for October 24th and encouraged all to attend.

Ms. Hahn spoke to the findings of the Final Audit Report prepared by the Citizen's Advocacy Center (CAC) on the Health Practitioners Intervention Program (HPIP) and DHP's response to the findings. Ms. Hahn said that DHP considered all of the CAC recommendations, agreed with some, disagreed with some, and has already implemented several.

HEALTHCARE WORKFORCE DATA CENTER UPDATE

Dr. Elizabeth Carter reviewed the 2015 Radiological Technologist Workforce survey. She then presented a snapshot of the future physician workforce and said that there will most likely be an 8% loss of physicians in next 12 months and 14% within 2 years, due to retirement. Dr. Carter requested the members submit any comments about the workforce report to Dr. Harp.

REPORT OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT'S REPORT

Dr. Allison-Bryan said that she, along with several other Board members, attended the Medical Society of Virginia (MSV) Annual Meeting and came away with great learning points. She noted that Dr. Bhushan Pandya is the first international graduate to be installed as President of MSV and that she will be serving as an advisor to the MSV Executive Committee. Dr. Allison-Bryan also provided an update on several resolutions that were of interest to the Board including licensure for associate physicians, telemedicine practitioners, obtaining PCP information, the interstate licensure compact, and maintenance of certification.

From her seat on the Board of Health Professions, Dr. Allison-Bryan provided a synopsis of the Chiropractic/CDL review by the Regulatory Research Committee. The meeting concluded that 1) health care providers should practice to the highest level of their education and training; 2) chiropractors who successfully complete the Federal Motor Carrier Safety Administration Medical Examiners training and testing do have the requisite education and training; and 3) the current chiropractic scope of practice is antiquated and should be reviewed by the Virginia Chiropractic Association.

VICE-PRESIDENT'S REPORT

Dr. O'Connor requested to defer his report until discussion of the Legislative Committee's recommendations.

SECRETARY-TREASURER'S REPORT

Dr. Tuck did not have a report.

EXECUTIVE DIRECTOR'S REPORT

- Revenue and Expenditures Report

Dr. Harp gave an updated financial report covering the first quarter of fiscal year 2017 and the Board's cash position, which allows for a 20% decrease in renewal fees the next biennium. Dr. Harp noted that the Board's FY17 and FY18 budget requests have been approved with the exception of the \$681,100 in legal fees. However, funding will be available if needed.

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

- Health Practitioners Monitoring Program

Dr. Harp noted that Medicine currently has 110 participants in the program.

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

- Work Group on Board Education, Service and Training

Dr. Harp advised that Dr. Edwards attended Federation of State Medical Boards (FSMB) session on Board Education, Service and Training. The charge of the work group was to identify, study, develop and make available resources to support the roles and responsibilities associated with service on a state medical or osteopathic board.

Dr. Edwards added that the work group was very complimentary of Virginia. It was noted that Virginia was not acknowledged for several elements of its training on FSMB's chart of elements to be included in such training.

- Update on Buprenorphine Work Group

Dr. Harp provided an update on the progress of the Buprenorphine Work Group. He reminded the members that the Work Group was recommended by the Governor's Task Force on Prescription Drug and Heroin Abuse; it has met twice with Dr. Walker as Chair. The Group will probably be scheduled to reconvene one last time in January to review the specialty populations and prepare the recommendations for review by the full Board in February. It is anticipated that the document from the Work Group will be used by the Board to formulate regulations.

- Ad Hoc Committee on Opioid Continuing Education

Dr. Harp advised that Dr. Conklin and Dr. Taminger have agreed to serve on the Committee that will be meeting October 28th to determine how to identify prescribers that will be required to obtain continuing education on opioids. The Director of the Prescription Monitoring Program will be in attendance to help the Committee in its determination.

- Letter from Accreditation Council for Graduate Medical Education (ACGME)

Dr. Harp referred to the written correspondence from Thomas Nasca, MD, Chief Executive Officer with the ACGME, in which he asks that Milestones data not be requested or used in the licensure of physicians. Milestones are meant to be a tool to assess residents' progress in programs, not as a comment on their readiness for independent practice, a decision which is made at the completion of the program.

- American Cancer Society Action Network Report Card

Dr. Harp advised that Virginia was one of 13 states that had been awarded an "A" grade for its approach to pain management.

- Federation of State Medical Boards' Visit in February 2017

Dr. Harp relayed the FSMB's wish to visit the Board in February 2017 to discuss several topics, including the Compact.

Dr. Allison-Bryan stated FSMB is aware of Virginia's reluctance to join the Compact at this time, and for many reasons, the Compact Commission is busy reworking the Compact. She suggested that a visit from current Compact Commissioner, Dr. Jon Thomas, may be helpful.

- Recommendation from the Advisory Board on Occupational Therapy

Dr. Harp briefly outlined the discussion stating that the Advisory Board recommends that the Board of Medicine not approve the use of dry needling by occupational therapists at this time.

This was provided as information, and no action was needed.

COMMITTEE AND ADVISORY BOARD REPORTS

- Committee Appointments and Advisory Board Reports

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

OTHER REPORTS

Assistant Attorney General

Ms. Barrett provided an update on the status of several Board appeals.

Board of Health Professions

Dr. Allison-Bryan previously addressed this item in her President's report.

Podiatry Report

Dr. Clements advised that there had been feedback from the Virginia Podiatric Medical Association (VPMA) regarding the possible change in postgraduate training requirements. VPMA is in full support of

one year of postgraduate training for full licensure.

Chiropractic Report

Dr. Tuck gave a brief report on his attendance at the meeting of the Federation of Chiropractic Licensing Boards. He said that telechiropractic is becoming more prevalent. He requested that chiropractors be included in any development of regulations regarding telemedicine in the future.

Committee of the Joint Boards of Nursing and Medicine

There was no report.

The Board took a break at 10:20 a.m., and reconvened at 10:32 a.m.

NEW BUSINESS

1. REGULATORY AND LEGISLATIVE ISSUES

- Chart of Regulatory Actions

Ms. Yeatts reviewed the chart on the status of regulations for the Board as of October 12, 2016.

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

- Board Action on Continuing Education Regulations

Ms. Yeatts explained that legislation required promulgation of regulations to allow licensees of the Board to count some volunteer clinical service towards meeting continuing education requirements. She advised that this mandate will take effect on January 1, 2017.

Ms. Yeatts said the Legislative Committee recommends that 1 hour of volunteer service equate to 1 hour of Type II CE, and that the Type II CE hours that could be obtained through volunteer service be capped at 15.

Dr. Reynolds move to accept the recommendation, and after discussion the motion was seconded and carried unanimously.

Dr. Tuck asked that the accreditation list under 18VAC85-20-235 (A)(1)(a) be updated to reflect the Providers of Continuing Education (PACE) program supported by the Federation of Chiropractic Licensing Boards. It was noted that the PACE program had been previously designated an organization approved by the Board.

Occupational Therapy

Ms. Yeatts said the Advisory Board on Occupational Therapy recommends that up to 2 hours of Type 2 CE for volunteer service be authorized at a ratio of three hours of volunteer service to 1 hour of CE.

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

Radiological Technology and Polysomnography

Ms. Yeatts said both Advisory Boards recommended 3 hours of volunteer service for 1 credit hour of CE.

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

Adoption of Final Regulations to Increase Hours of Continuing Education for Behavior Analysts and Assistant Behavior Analysts, to Include CE credit for Volunteer Hours

Ms. Yeatts related that the Advisory Board recommends adoption of the proposed amendments increasing the number hours required to renew an active license from 24 to 32 hours per biennium for behavior analysts and from 16 to 20 hours per biennium for assistant behavior analysts. The increase is recommended because the Advisory Board feel that consistency between the CE requirements for professional certification and those for licensure would encourage licensees to maintain certification with the Behavior Analyst Certification Board. Ms. Yeatts noted that all of the public comment received was supportive of these amendments.

Ms. Yeatts also stated that these amendments include the acceptance of volunteer practice for CE.

Dr. Edwards moved to accept the recommendation as presented. The motion was seconded and carried unanimously.

Adoption of Fast-Track Amendment for Radiologic Technology

Ms. Yeatts advised that the Advisory Board on Radiological Technology did not have a quorum at its October 5th meeting; however, those members in attendance agreed that the traineeship provision is confusing and outdated. It was speculated that the traineeship provision was established because, at the time Virginia first required licensure, the licensing examination was offered only three times a year. Now it is now available every day. The Advisory Board recommends that the Board repeal section 50 and 61 by a fast-track action.

Dr. Ali moved to accept the recommendation. The motion was second and carried unanimously.

Adoption of Amendments to Include College Credit Hours for Continuing Education for Respiratory Therapists, to Include CE credit for Volunteer Hours

Ms. Yeatts reviewed the proposed amendments as recommended by the Advisory Board on Respiratory Care, noting that respiratory therapists are increasingly obtaining post-licensure college hours of education, and that those hours should be counted for continuing education. Additionally, the amendments include acceptance of certain volunteer practice for CE credit.

Dr. Toor moved to accept the recommendation. The motion was seconded and carried unanimously.

Adoption of Proposed Regulation – Occupational Therapy

Ms. Yeatts informed the Board that when the Advisory Board on Occupational Therapy recommended to the full Board the acceptance of NBCOT certification as satisfaction of continuing education for renewal of licensure, they did not think it was controversial. However, there were more than 10 objections of public comment regarding the fast-track regulation. As such, it was returned to the Advisory Board, and after discussion, there was a unanimous recommendation for adoption of proposed regulations identical to the regulation previously issued as a fast-track action.

Ms. Yeatts pointed out that NBCOT is the entity from which the Board accepts certification for initial licensure and that NBCOT provides a broad range of activities for competency assessment. The renewal cycle for NBCOT differs from the Board's renewal cycle. However, physician assistants, athletic trainers, and licensed midwives all require certification for renewal that is not synchronous with the Board's renewal cycle, and they have not been problematic.

Dr. Koziol moved to accept the recommendation of the Advisory Board for the amendment of the regulations to include acceptance of NBCOT certification as evidence of continuing competency. The motion was seconded and carried unanimously.

Discussion of Guidance Document 90-56

Ms. Yeatts explained that, at its meeting on September 20, 2016, the Board of Nursing rejected the change adopted by the Board of Medicine in August deleting authorization for nurse practitioners in the category of nurse midwives to write DNR orders. The Board of Nursing referred the document to the Committee of the Joint Boards and requests that the Board of Medicine offer some rationale for the exclusion of DNR orders for nurse midwives.

During the discussion, the members expressed several concerns, including that nurse midwives provide care to women in their reproductive years, their training regarding the ability to make the decision not to resuscitate a mother, that the DNR process is very complicated and time-consuming, and practice in consultation with physicians, rather than collaboratively.

It was noted that the current guidance document allows nurse practitioners to write DNR orders.

After further discussion, Dr. Edwards moved to refer the matter back to the Committee of the Joint Boards to review the language. Ms. Yeatts added that the Committee of the Joint Boards can review the entire document and indicate what should be in the practice agreement and what must be in the practice agreement. The Board unanimously agreed.

2. Licensure Parity

This issue was brought to the Board's attention earlier this year by Bhushan Pandya, MD, President of the Medical Society of Virginia and incoming Chair of the International Medical Graduates Section Governing Council of the American Medical Association. This issue was mentioned at the June Board meeting as a heads-up and was discussed at the August Executive Committee meeting. It was presented to the Legislative Committee as it 1) involves potential statutory changes and 2) two of the Board members that volunteered to be involved in the discussion of this issue are on the Legislative Committee.

The recommendation to the Board from the September 25, 2016 Legislative Committee meeting was to implement parity in postgraduate education requirements between US and Canadian graduates and international graduates. Further, it recommended that the postgraduate requirement for all graduates be 1 year. Dr. Allison-Bryan noted that both the AMA and MSV have accepted this preliminary proposal, but FSMB recommends 3 years of postgraduate training for all medical graduates. If the Board votes to require 3 years, it would not be able to license our military physicians after their internship year. And there would be an effective decrease in access to physicians that would most likely have to be met by other healthcare professionals.

Dr. Toor moved to accept the recommendation of 1 year for US, Canadian and International graduates.

After Mr. Heaberlin clarified the qualifying education and examination requirements for IMG's to enter an ACMGE-accredited postgraduate program, Dr. Taminger questioned if the Board would be setting the bar too low and had the Board communicated with states that have a requirement of 2 years.

Dr. Allison-Bryan stated that going "backwards" to adding years for US and Canadian graduates would be difficult.

Dr. O'Connor asked, "If everyone passes the same test, why discriminate?"

After further discussion, the motion to require 1 year of postgraduate training passed unanimously.

3. **Recommendation from the Credentials Committee**

Review of the application process

To achieve greater efficiency and streamline the process, staff is recommending that the online US, Canadian, and International MD and DO applications be combined.

Dr. Ali moved to accept the recommendation. The motion was seconded and carried unanimously.

Regulatory action for licensure by endorsement

Dr. Harp stated that §54.1-2725 provides the Board with an avenue to an expedited license by accepting static documents and completion of a dynamic application.

Dr. Reynolds moved to accept the Credentials Committee recommendation that a NOIRA be issued for the promulgation of rules that would allow the Board to license physicians by endorsement. The motion was seconded and carried unanimously.

Proposal to Revise Section 54.1-2930(4) Requirements for Licensure

Mr. Heaberlin advised that this section placed extra scrutiny on international medical graduates who completed their clinical clerkships in the United States. He said that, after full discussion, the recommendation of the Credentials Committee was to support legislative action to strike the following

two sentences from Code Section 54.1-2930(4)

“Supervised clinical training that is received in the United States as part of the curriculum of an international medical school shall be obtained in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the relevant clinical training or in a program acceptable to the Board and deemed a substantially equivalent experience. The Board may also consider any other factors that reflect whether that institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.”

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

It was stated that the Medical Society of Virginia will carry this legislation.

Employment Verifications for Applicants Practicing Telemedicine

Mr. Heaberlin reviewed the process required by the Board’s applicants for licensure to provide employment verifications from all sites of service for the last 5 years. He explained that the Board approved accepting employment verifications from the medical directors of companies that employ physicians practicing teleradiology and telepathology. This was a consideration chiefly due to the sheer number of sites of service, but also that personnel at the sites may not be familiar with the physician’s performance. The Committee discussed whether it wanted to expand this practice to other areas of telemedicine or to those physicians who work locum tenens. The Committee decided to maintain the status quo of requiring Form B’s from all locations in the last 5 years.

Transcripts and Diplomas for Foreign Medical Graduates

Dr. Walker, Chair of the Credentials Committee, explained that for years the Board has accepted notarized copies of transcripts and diplomas from international medical graduates, since originals from their native country may not be available due to war, political unrest, etc. Mr. Heaberlin recently confirmed with Educational Commission on Foreign Medical Graduates (ECFMG) that it obtains primary-sourced documents from international schools and can provide them to boards of medicine through a service called EPIC. Given that this service is now available, he recommended that the Board no longer accept copies of these documents, but rather instruct international medical graduates to engage the EPIC system through ECFMG to have the primary-sourced documents sent to the Board.

Dr. Edwards moved to accept the recommendation as presented. The motion was seconded and carried unanimously.

E-Verification for Allied Professions

Dr. Walker advised that the use of VeriDoc, which provides electronic verification of Virginia licensure to other boards for physicians and physician assistants, has streamlined the Board’s efficiency with the verification process. Board staff, with the assistance of the Data Division, has discussed development of a

similar in-house process for sending electronic verifications for the Board's allied professions to other boards and is asking for permission to pursue this option.

Dr. Conklin moved to permit the use of electronic verifications for the allied professions as recommended by Dr. Walker and Board staff. The motion was seconded and carried unanimously.

Licensing Report

Mr. Heaberlin provided a quick report on licensing statistics and fielded questions regarding the PACE program for continuing education.

This report was for informational purposes only.

Discipline Report

Ms. Deschenes provided an update on case review and announced that Adjudication Specialist Julia Bennett would be leaving DHP to assume a position in the Office of the Attorney General.

Announcements

There were no announcements.

ADJOURNMENT

Dr. Allison-Bryan adjourned the meeting at 12:30 p.m.

Barbara Allison-Bryan, MD
President, Chair

William L. Harp, MD
Executive Director

Colanthia M. Opher
Recording Secretary