- VIRTUAL - Executive Committee Meeting

Virginia Board of Medicine
April 9, 2021
8:30 a.m.

Virginia Department of Health Professions
Board of Medicine

Welcome to the Executive Committee Meeting

The Virginia Board of Medicine will hold an electronic meeting of the Executive Committee on **April 9, 2021 at 8:30 A.M.** This meeting will be supported by Cisco WebEx Meetings application.

For the best WebEx experience, you may wish to download the Cisco WebEx Meeting application on your mobile device, tablet or laptop in advance of the meeting. Please note that WebEx will make an audio recording of the meeting for posting

This electronic meeting is deemed warranted under Amendment 28 to HB29 based on that requiring in-person attendance by the Legislative Committee members is impracticable or unsafe to assemble in a single location.

Comments will be received during the meeting from those persons who have submitted an email to **william.harp@dhp.virginia.gov** no later than 5:00 p.m. on April 8, 2021 indicating that they wish to offer comment. Comment may be offered by these individuals when their names are announced by the chairman.

You can join the meeting in the following ways.

- **CLICK HERE** Join meeting
- **JOIN by WEBEX**

https://covaconf.webex.com/covaconf/j.php?MTID=m6eee95dde8be29402932734745555688
Meeting number (access code): 185 233 7050

- **JOIN BY PHONE**

+1-517-466-2023 US Toll
+1-866-692-4530 US Toll Free
Meeting number (access code): 185 233 7050

TECHNICAL DIFFICULTIES: Should you experience technical difficulties, you may call the following number: (804) 339-0627 for assistance. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

The Board of Medicine and the Freedom of Information Act Council are interested in your evaluation of the electronic experience of this meeting. You can provide comment via the following form **HERE**.

Executive Committee

Friday, April 9, 2021 @ 8:30 a.m.
Virtual Meeting

Call to Order and Roll Call

Emergency Egress Procedures

Moment of Silence for The Honorable William Edward Quarles, Jr. 1

PUBLIC HEARING: Conversion Therapy Regulations 2

Approval of Minutes from December 4, 2020 4

Adoption of Agenda

Public Comment on Agenda Items

DHP Director's Report .....-----

Reports of Officers and Executive Director .....

- President.....-------
- Vice-President.....-------
- Secretary-Treasurer.....-------
- Executive Director .....
  - Cash Balance.....8
  - YTD Revenue and Expenditures 9
  - Allocation Data for Enforcement, APD, and HPMP 13
  - Update on Opioid Waiver Requests.....17
  - Electronic Meetings Update.....17
  - Continuing Reciprocity Discussion with Maryland and DC 17
  - Federation of State Medical Boards John H. Clark, MD Leadership Award .....--

New Business:

1. Regulatory and Legislative Issues – Elaine Yeatts

- Chart of Regulatory Actions 18
- Report on the 2021 General Assembly 19
- Reaffirmation of Guidance Document 85-14 28

2. Recommendation from the Legislative Committee re: IMLC..... 30

3. Recommendation from the Advisory Board on Midwifery …….33

4. Recommendation from Board Staff on the Endorsement Pathway

- Language Change for Application Question on Malpractice 42
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5. Licensing Report – Mr. Sobowale ..... ---

6. Discipline Report – Ms. Deschenes ..... ---

7. Announcements/Reminders 46

====No motion needed to adjourn if all business has been conducted====

The Honorable William Edward QUARLES, Jr. of Goochland passed away suddenly Wednesday, February 3, 2021. Mr. Quarles served the community in many capacities over the years. At the time of his death, he was the Vice-Chair of the Goochland School Board and a member of the Board of Medicine's Advisory Board on Radiologic Technology.

Let us honor him with a moment of silence.

Copy of Regulations on Conversion Therapy

for

Public Hearing

April 9, 2021

Proposed Text

Board of Medicine

18VAC85-20-10 Definitions

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

Board

Healing arts

Practice of chiropractic

Practice of medicine or osteopathic medicine

Practice of podiatry

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Approved institution" means any accredited school or college of medicine, osteopathic medicine, podiatry, or chiropractic located in the United States, its territories, or Canada.

"Conversion therapy" means any practice or treatment as defined in § 54.1-2409.5 A of the Code of Virginia.

"Principal site" means the location in a foreign country where teaching and clinical facilities are located.

18VAC85-20-29 Practitioner responsibility

A. A practitioner shall not:

1. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;

2. Engage in an egregious pattern of disruptive behavior or an interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

3. Exploit the practitioner and patient relationship for personal gain; or

4. Engage in conversion therapy with a person younger than 18 years of age.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in subdivision A 2 of this section.

VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES – VIRTUAL MEETING

Friday, December 4, 2020 Department of Health Professions Henrico, VA

CALL TO ORDER: Dr. Conklin called the virtual meeting of the Executive Committee to order at 8:30 a.m.

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

MEMBERS PRESENT:
Lori Conklin, MD - President
Blanton Marchese – Vice-President
David Archer, MD - Secretary-Treasurer
Alvin Edwards, MDiv, PhD
Jane Hickey, JD
Karen Ransone, MD
Joel Silverman, MD
Brenda Stokes, MD

MEMBERS ABSENT: None

STAFF PRESENT:
William L. Harp, MD - Executive Director
Jennifer Deschenes, JD – Deputy Exec. Director for Discipline
Colanthia Morton Opher - Deputy Exec. Director for Administration
Michael Sobowale, LLM - Deputy Exec. Director for Licensure
Barbara Matusiak, MD - Medical Review Coordinator
Barbara Allison-Bryan, MD - DHP Deputy Director
Elaine Yeatts - DHP Senior Policy Analyst
Erin Barrett, JD - Assistant Attorney General

OTHERS PRESENT:
W. Scott Johnson, JD – Medical Society of Virginia
Jerry Canaan, JD
Jennie Wood – Board of Medicine staff
Jerry Gentile
Richard Grossman
Ben Traynham, JD – Hancock Daniel

EMERGENCY EGRESS INSTRUCTIONS

Dr. Harp provided the emergency egress instructions for those in the building.

APPROVAL OF MINUTES OF AUGUST 7, 2020

Dr. Edwards moved to approve the meeting minutes from August 7, 2020 as presented. The motion was seconded by Dr. Ransone and carried unanimously.

ADOPTION OF AGENDA

Dr. Conklin advised that item number 2 under new business had been tabled. Dr. Ransone moved to adopt the amended agenda as presented. The motion was seconded by Dr. Edwards and carried unanimously.

PUBLIC COMMENT

There was no public comment.

DHP DIRECTOR'S REPORT

Dr. Allison-Bryan provided an update on the status of marijuana processors and the Governor's recent announcement of his support of legalizing recreational use in adults. She also gave a progress report on the development, approval, availability and distribution of the COVID-19 vaccine.

PRESIDENT'S REPORT

No report.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp advised Dr. Conklin that Dr. Silverman was able to hear others in the meeting but was unable to unmute for votes. Dr. Harp said he would assist Dr. Silverman by routing his attendance through Dr. Harp's iPhone.

Dr. Harp reported that the Board is in good financial shape. He briefly reviewed the investigative hours reported by the Enforcement and Administrative Proceedings Divisions. He commended Brenda Stokes, MD for her work on the Board of Pharmacy's Workgroups, her steadfast attendance at Credentials Committee hearings and disciplinary hearings, and most recently her appointment by Governor Northam as the Board of Medicine's representative on the Board of Health Professions.

NEW BUSINESS

Chart of Regulatory Actions

The chart was for review only.

Adoption of Final Regulations for Physician Assistants

Ms. Yeatts advised that the proposed amendments are identical to the emergency regulations that became effective on October 1, 2019. There were no comments on the NOIRA or the proposed regulations to replace the emergency regulations.

MOTION: Dr. Edwards moved to adopt the proposed final regulations to replace emergency regulations for the practice of physician assistants with patient care team physicians. The motion was seconded by Dr. Ransone and carried unanimously.

Regulatory Action – Waiver of Requirement for Electronic Prescribing

Ms. Yeatts stated that this action is to replace emergency regulations, which became effective on September 18, 2019, with permanent regulations. She noted that there were two comments received, both in support of the proposed regulations. She also pointed out the one difference between the emergency and proposed final regulations was an added reference to the exemptions from electronic prescribing in the Code.

MOTION: Ms. Hickey moved to adopt the final regulations for waivers as amended. The motion was seconded by Dr. Ransone and carried unanimously.

Guidance Document – Repeal of 85-3 regarding FORM B's

Ms. Yeatts explained that to facilitate and expedite licensure during the COVID pandemic, the Board discontinued the use of the FORM B to collect information about employment performance. The FORM B has been one of the most time-consuming aspects of applying for a license, and the Board is recommending elimination of this requirement on a permanent basis. Therefore, it would be appropriate for the Board to repeal the guidance document which provides instructions on how to fill out a FORM B.

Dr. Harp added that any performance issues important enough to impact licensing should be picked up on the required National Practitioner Data Bank report.

MOTION: Dr. Stokes moved to repeal Guidance Document 85-3 as presented in the agenda packet. The motion was seconded by Mr. Marchese and carried unanimously.

Regulatory Action – Approval for a Notice of Periodic Review

Ms. Yeatts noted that Regulation 18VAC110-40: Regulations Governing Collaborative Practice Agreements, are dually adopted by Pharmacy and Medicine. Following the 4-year review schedule, the Board of Pharmacy is preparing to initiate periodic reviews for all its regulations and will be adopting a Notice of Periodic Review of the Collaborative Practice regulation on December 10th.

MOTION: Dr. Edwards moved to approve a Notice of Periodic Review for Regulation 18VAC110-40: Regulations Governing Collaborative Practice. The motion was seconded by Mr. Marchese and carried unanimously.

Approval of the Recommendation from the Ad Hoc Committee on Opioid CE

Dr. Conklin provided an overview of the meeting of the Ad Hoc Committee on Opioid CE. She reviewed the trends in communications noted by Board staff and the PMP. She said the Ad Hoc recommended that all Board of Medicine licensees with prescribing authority be required

to obtain the 2 hours in the next biennium, and that the CE resources listed be made available. She also stated that the Ad Hoc agreed this requirement should extend past 2022.

Dr. Conklin said that a notification email would be sent by January 1, 2021 to the identified licensees, notifying them of the requirement and providing them with suggested resources recognized as Type 1.

MOTION: Dr. Edwards moved to accept the recommendation from the Ad Hoc Committee on Opioid CE to include the reading of the regulations, reading of the FAQs, and watching the NARX Care modules and to only claim the amount of time spent on each module. Additionally, to authorize Dr. Harp to wordsmith the email notification to licensees and include pertinent resources. The motion was seconded by Dr. Ransone and carried unanimously.

ANNOUNCEMENTS

There were no announcements.

The next meeting of the Executive Committee will be April 9, 2021 @ 8:30 a.m.

ADJOURNMENT

With no additional business, the meeting adjourned at 9:16 a.m.

_____
Lori Conklin, MD
President, Chair

_____
William L. Harp, MD
Executive Director

_____
Colanthia M. Opher
Recording Secretary

Virginia Department of Health Professions
Cash Balance
As of February 28, 2021

	102- Medicine
Board Cash Balance as June 30, 2020	$ 9,298,608
YTD FY21 Revenue	6,618,240
Less: YTD FY21 Direct and Allocated Expenditures	5,984,710
Board Cash Balance as Febraury 28, 2021	$ 9,932,139

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10200 - Medicine

For the Period Beginning July 1, 2020 and Ending February 28, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
4002400	Fee Revenue				
4002401	Application Fee	934,719.00	1,414,774.00	480,055.00	66.07%
4002402	Examination Fee	3,047.00	-	(3,047.00)	0.00%
4002406	License & Renewal Fee	5,661,542.00	6,273,362.00	611,820.00	90.25%
4002407	Dup. License Certificate Fee	5,585.00	3,375.00	(2,210.00)	165.48%
4002409	Board Endorsement - Out	500.00	49,820.00	49,320.00	1.00%
4002421	Monetary Penalty & Late Fees	12,275.00	94,179.00	81,904.00	13.03%
4002432	Misc. Fee (Bad Check Fee)	185.00	175.00	(10.00)	105.71%
	Total Fee Revenue	6,617,853.00	7,835,685.00	1,217,832.00	84.46%
4003000	Sales of Prop. & Commodities				
4003020	Misc. Sales-Dishonored Payments	387.00	-	(387.00)	0.00%
	Total Sales of Prop. & Commodities	387.00	-	(387.00)	0.00%
	Total Revenue	6,618,240.00	7,835,685.00	1,217,445.00	84.46%
5011110	Employer Retirement Contrib.	130,722.53	189,919.65	59,197.12	68.83%
5011120	Fed Old-Age Ins- Sal St Emp	62,330.70	93,721.45	31,390.75	66.51%
5011140	Group Insurance	12,459.62	17,599.75	5,140.13	70.79%
5011150	Medical/Hospitalization Ins.	139,093.05	222,548.88	83,455.83	62.50%
5011160	Retiree Medical/Hospitalizatn	10,455.28	14,710.24	4,254.96	71.07%
5011170	Long term Disability Ins	5,119.58	8,011.82	2,892.24	63.90%
	Total Employee Benefits	360,180.76	546,511.79	186,331.03	65.91%
5011200	Salaries				
5011230	Salaries, Classified	905,263.10	1,313,413.93	408,150.83	68.92%
5011250	Salaries, Overtime	5,045.18	-	(5,045.18)	0.00%
	Total Salaries	910,308.28	1,313,413.93	403,105.65	69.31%
5011300	Special Payments				
5011340	Specified Per Diem Payment	4,500.00	-	(4,500.00)	0.00%
5011380	Deferred Compnstn Match Pmts	3,865.80	8,817.60	4,951.80	43.84%
	Total Special Payments	8,365.80	8,817.60	451.80	94.88%
5011400	Wages				
5011410	Wages, General	35,410.26	102,000.00	66,589.74	34.72%
	Total Wages	35,410.26	102,000.00	66,589.74	34.72%
5011530	Short-trm Disability Benefits	25,864.32	-	(25,864.32)	0.00%
	Total Disability Benefits	25,864.32	-	(25,864.32)	0.00%
5011600	Terminatn Personal Svce Costs				
5011660	Defined Contribution Match - Hy	3,396.09	-	(3,396.09)	0.00%
	Total Terminatn Personal Svce Costs	3,396.09	-	(3,396.09)	0.00%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	1,343,525.51	1,970,743.32	627,217.81	68.17%
5012000	Contractual Svs				
5012100	Communication Services				
5012110	Express Services	-	5,997.00	5,997.00	0.00%
5012120	Outbound Freight Services	3,406.85	-	(3,406.85)	0.00%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 10200 - Medicine
For the Period Beginning July 1, 2020 and Ending February 28, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012140	Postal Services	54,735.11	66,802.00	12,066.89	81.94%
5012150	Printing Services	49.51	3,026.00	2,976.49	1.64%
5012160	Telecommunications Svcs (VITA)	6,979.87	10,500.00	3,520.13	66.47%
5012170	Telecomm. Svcs (Non-State)	765.00	-	(765.00)	0.00%
5012190	Inbound Freight Services	107.47	35.00	(72.47)	307.06%
	Total Communication Services	66,043.81	86,360.00	20,316.19	76.48%
5012200	Employee Development Services				
5012210	Organization Memberships	6,829.00	7,228.00	399.00	94.48%
5012240	Employee Trainng/Workshop/Conf	1,784.00	4,283.00	2,499.00	41.65%
	Total Employee Development Services	8,613.00	11,511.00	2,898.00	74.82%
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	2,298.00	2,298.00	0.00%
	Total Health Services	-	2,298.00	2,298.00	0.00%
5012400	Mgmnt and Informational Svcs	-			
5012420	Fiscal Services	115,002.67	119,963.00	4,960.33	95.87%
5012430	Attorney Services	2,872.50	-	(2,872.50)	0.00%
5012440	Management Services	1,014.61	1,797.00	782.39	56.46%
5012460	Public Infrmtnl & Relatn Svcs	14.00	-	(14.00)	0.00%
5012470	Legal Services	2,615.35	5,579.00	2,963.65	46.88%
	Total Mgmnt and Informational Svcs	121,519.13	127,339.00	5,819.87	95.43%
5012500	Repair and Maintenance Svcs				
5012510	Custodial Services	2,188.46	-	(2,188.46)	0.00%
5012530	Equipment Repair & Maint Srvc	9,671.95	1,705.00	(7,966.95)	567.27%
	Total Repair and Maintenance Svcs	11,860.41	1,705.00	(10,155.41)	695.63%
5012600	Support Services				
5012630	Clerical Services	63,797.49	160,729.00	96,931.51	39.69%
5012640	Food & Dietary Services	4,205.46	12,698.00	8,492.54	33.12%
5012660	Manual Labor Services	12,156.66	24,912.00	12,755.34	48.80%
5012670	Production Services	72,027.31	153,625.00	81,597.69	46.89%
5012680	Skilled Services	268,707.05	531,779.00	263,071.95	50.53%
	Total Support Services	420,893.97	883,743.00	462,849.03	47.63%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	7,976.08	25,626.00	17,649.92	31.12%
5012830	Travel, Public Carriers	439.49	4,170.00	3,730.51	10.54%
5012850	Travel, Subsistence & Lodging	4,375.19	21,524.00	17,148.81	20.33%
5012880	Trvl, Meal Reimb- Not Rprtble	2,629.50	7,407.00	4,777.50	35.50%
	Total Transportation Services	15,420.26	58,727.00	43,306.74	26.26%
	Total Contractual Svs	644,350.58	1,171,683.00	527,332.42	54.99%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013110	Apparel Supplies	113.32	-	(113.32)	0.00%
5013120	Office Supplies	13,681.79	14,609.00	927.21	93.65%
5013130	Stationery and Forms	-	3,614.00	3,614.00	0.00%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 10200 - Medicine
For the Period Beginning July 1, 2020 and Ending February 28, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
	Total Administrative Supplies	13,795.11	18,223.00	4,427.89	75.70%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	94.00	94.00	0.00%
	Total Manufctrng and Merch Supplies	-	94.00	94.00	0.00%
5013400	Medical and Laboratory Supp.				
5013420	Medical and Dental Supplies	16.26	-	(16.26)	0.00%
	Total Medical and Laboratory Supp.	16.26	-	(16.26)	0.00%
5013500	Repair and Maint. Supplies				
5013510	Building Repair & Maint Materl	42.85	-	(42.85)	0.00%
5013520	Custodial Repair & Maint Matrl	5.91	-	(5.91)	0.00%
	Total Repair and Maint. Supplies	48.76	-	(48.76)	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	-	528.00	528.00	0.00%
5013630	Food Service Supplies	-	1,129.00	1,129.00	0.00%
	Total Residential Supplies	-	1,657.00	1,657.00	0.00%
5013700	Specific Use Supplies				
5013730	Computer Operating Supplies	142.58	166.00	23.42	85.89%
	Total Specific Use Supplies	142.58	166.00	23.42	85.89%
	Total Supplies And Materials	14,002.71	20,140.00	6,137.29	69.53%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015160	Property Insurance	-	485.00	485.00	0.00%
	Total Insurance-Fixed Assets	-	485.00	485.00	0.00%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	4,373.74	7,200.00	2,826.26	60.75%
5015350	Building Rentals	308.60	-	(308.60)	0.00%
5015360	Land Rentals	-	100.00	100.00	0.00%
5015390	Building Rentals - Non State	100,811.14	144,636.00	43,824.86	69.70%
	Total Operating Lease Payments	105,493.48	151,936.00	46,442.52	69.43%
5015500	Insurance-Operations				
5015510	General Liability Insurance	-	1,828.00	1,828.00	0.00%
5015540	Surety Bonds	-	108.00	108.00	0.00%
	Total Insurance-Operations	-	1,936.00	1,936.00	0.00%
	Total Continuous Charges	105,493.48	154,357.00	48,863.52	68.34%
5022000	Equipment				
5022100	Computer Hrdware & Sftware				
5022170	Other Computer Equipment	11,239.07	-	(11,239.07)	0.00%
5022190	Development Tools Purchases	15.00	-	(15.00)	0.00%
	Total Computer Hrdware & Sftware	11,254.07	-	(11,254.07)	0.00%
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	829.00	829.00	0.00%
	Total Educational & Cultural Equip	-	829.00	829.00	0.00%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 10200 - Medicine

For the Period Beginning July 1, 2020 and Ending February 28, 2021

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5022600	Office Equipment				
5022610	Office Appurtenances	-	125.00	125.00	0.00%
5022620	Office Furniture	822.45	-	(822.45)	0.00%
5022640	Office Machines	-	1,250.00	1,250.00	0.00%
5022680	Office Equipment Improvements	-	17.00	17.00	0.00%
	Total Office Equipment	822.45	1,392.00	569.55	59.08%
5022700	Specific Use Equipment				
5022740	Non Power Rep & Maint- Equip	9.62	-	(9.62)	0.00%
	Total Specific Use Equipment	9.62	-	(9.62)	0.00%
	Total Equipment	12,086.14	2,221.00	(9,865.14)	544.18%
	Total Expenditures	2,119,458.42	3,319,144.32	1,199,685.90	63.86%
	Allocated Expenditures				
30100	Data Center	571,053.09	1,126,420.08	555,366.99	50.70%
30200	Human Resources	77,748.82	84,716.17	6,967.35	91.78%
30300	Finance	287,344.35	435,541.60	148,197.25	65.97%
30400	Director's Office	98,873.23	156,493.77	57,620.54	63.18%
30500	Enforcement	1,651,130.96	2,522,862.12	871,731.16	65.45%
30600	Administrative Proceedings	772,694.35	1,278,297.24	505,602.90	60.45%
30700	Impaired Practitioners	28,352.11	48,292.08	19,939.98	58.71%
30800	Attorney General	251,291.78	350,592.62	99,300.84	71.68%
30900	Board of Health Professions	84,035.50	117,795.97	33,760.47	71.34%
31100	Maintenance and Repairs	1,746.68	10,911.33	9,164.65	16.01%
31300	Emp. Recognition Program	401.41	5,693.26	5,291.85	7.05%
31400	Conference Center	1,039.66	1,580.92	541.26	65.76%
31500	Pgm Devlpmnt & Implmentn	39,539.21	70,163.00	30,623.80	56.35%
	Total Allocated Expenditures	3,865,251.14	6,209,360.17	2,344,109.03	62.25%
	Net Revenue in Excess (Shortfall) of Expenditures	$ 633,530.44	$ (1,692,819.49)	$ (2,326,349.93)	37.42%

DHP

Average Percentage of Enforcement and APD Hours by Board

FY16 - FY20, July - February 2021

Enforcement Hours	FY16	FY17	FY18	FY19	FY20	Jul- Feb. 21
Nursing	31.99%	29.54%	28.03%	25.90%	27.16%	27.12%
Medicine	22.67%	25.22%	27.62%	26.81%	26.41%	26.85%
Dentistry	7.64%	6.92%	6.85%	7.32%	7.52%	9.15%
Funeral Directors and Embalmers	2.01%	2.02%	1.77%	1.92%	1.76%	1.77%
Optometry	0.65%	0.40%	0.38%	0.32%	0.43%	0.36%
Veterinary Medicine	5.77%	5.20%	4.58%	5.48%	3.60%	4.01%
Pharmacy	13.41%	14.52%	16.35%	16.35%	14.42%	12.19%
Psychology	1.00%	1.20%	1.24%	1.20%	1.45%	1.82%
Counseling	1.95%	1.84%	2.43%	3.53%	4.33%	4.95%
Social Work	1.33%	1.13%	1.29%	1.54%	1.11%	1.13%
Nurse Aide	9.05%	9.43%	6.82%	6.91%	9.11%	8.28%
Long-Term Care Administrators	1.48%	1.80%	1.72%	1.74%	1.34%	1.31%
Audiology and Speech Pathology	0.13%	0.09%	0.19%	0.26%	0.15%	0.09%
Physical Therapy	0.94%	0.69%	0.73%	0.71%	0.79%	0.66%
VA. Pharmaceutical Processor Program	0.00%	0.00%	0.00%	0.01%	0.42%	0.29%
Total	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

APD Hours	FY16	FY17	FY18	FY19	FY20	Jul- Feb. 21
Nursing	28.95%	26.92%	23.32%	24.19%	19.93%	23.84%
Medicine	40.83%	35.21%	43.55%	43.97%	43.46%	39.58%
Dentistry	9.99%	11.71%	6.68%	6.62%	15.12%	13.56%
Funeral Directors and Embalmers	1.28%	1.17%	1.16%	1.19%	0.79%	1.24%
Optometry	0.32%	2.34%	1.38%	0.25%	0.34%	0.31%
Veterinary Medicine	2.67%	2.84%	2.20%	2.47%	1.90%	2.01%
Pharmacy	3.32%	6.68%	6.49%	8.75%	6.52%	6.59%
Psychology	1.05%	0.69%	1.32%	1.04%	1.33%	0.52%
Counseling	1.02%	1.95%	2.03%	2.70%	5.00%	2.55%
Social Work	0.23%	0.78%	1.41%	0.84%	1.10%	3.56%
Nurse Aide	7.23%	6.46%	8.08%	4.29%	3.11%	3.86%
Long-Term Care Administrators	1.52%	2.47%	1.43%	1.84%	0.62%	1.13%
Audiology and Speech Pathology	0.30%	0.30%	0.15%	0.64%	0.42%	0.27%
Physical Therapy	1.29%	0.48%	0.80%	1.20%	0.37%	0.97%
VA. Pharmaceutical Processor Program	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Total	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Virginia Department of Health Professions
Input of Case Hours by Department
For Use in Allocation of Department 305- ***Enforcement*** Costs
For the Fiscal Year Ended June 30, 2021

	Fiscal Month No.	1	2	3	4	5	6	7	8	Annual	
	Month Name	July	August	September	October	November	December	January	February	Total	
Dept. No.	Dept. Name										
101	Nursing	2,209.60	2,027.40	1,779.20	1,834.43	1,569.15	1,711.15	1,963.90	1,710.63	14,805.46	27.12%
102	Medicine	2,054.13	2,068.45	1,801.20	1,980.75	1,486.45	1,802.28	1,710.78	1,754.43	14,658.47	26.85%
103	Dentistry	752.62	644.13	592.59	722.84	533.23	637.63	580.93	533.20	4,997.17	9.15%
104	Funeral Directors and Emba	118.80	197.70	122.25	148.75	75.50	124.00	104.50	75.25	966.75	1.77%
105	Optometry	54.25	57.75	25.50	11.75	8.75	20.00	6.75	10.00	194.75	0.36%
106	Veterinary Medicine	282.85	293.35	276.20	392.40	258.50	200.25	203.75	280.93	2,188.23	4.01%
107	Pharmacy	941.10	744.25	784.50	939.75	679.25	858.25	885.50	818.58	6,651.18	12.19%
108	Psychology	150.10	114.80	149.75	126.25	87.20	88.00	164.00	115.00	995.10	1.82%
109	Professional Counselors	336.80	335.95	326.05	350.25	375.50	306.00	317.50	355.00	2,703.05	4.95%
110	Social Work	114.25	148.75	87.25	50.00	45.25	61.00	34.00	77.75	618.25	1.13%
112	Cerified Nurse Aids (State	654.58	637.75	591.50	545.25	636.33	507.25	448.80	499.30	4,520.76	8.28%
114	Nursing Home Administrator	130.00	81.75	143.75	95.00	42.25	73.75	40.75	107.70	714.95	1.31%
115	Audiology and Speech Lang	7.50	-	3.75	10.00	11.75	8.00	3.50	6.75	51.25	0.09%
116	Physical Therapy	25.75	30.25	76.00	39.25	23.25	44.00	76.00	48.00	362.50	0.66%
118	Va. Pharm Processor Pgm	22.75	62.25	-		28.50	30.50		13.00	157.00	0.29%
	Total	7,855.08	7,444.53	6,759.49	7,246.67	5,860.86	6,472.06	6,540.66	6,405.52	54,584.870	

Virginia Department of Health Professions
Input of Case Hours by Department
For Use in Allocation of Department 306- ***Administrative Proceedings*** Costs
For the Fiscal Year Ended June 30, 2021

	Fiscal Month No.	1	2	3	4	5	6	7	8	Annual	
	Month Name	July	August	September	October	November	December	January	February	Total	
Dept. No.	Dept. Name										
101	Nursing	279.25	536.47	644.89	646.53	465.59	462.71	478.83	496.95	4,011.22	23.84%
102	Medicine	988.98	895.65	858.77	765.37	694.37	814.27	823.16	819.50	6,660.07	39.58%
103	Dentistry	361.91	297.78	331.22	262.26	228.96	288.21	256.86	253.62	2,280.82	13.56%
104	Funeral Directors and Emba	35.75	38.00	21.25	29.75	12.50	12.75	36.25	22.75	209.00	1.24%
105	Optometry	-	-	5.75	21.00	-	-	24.75	1.00	52.50	0.31%
106	Veterinary Medicine	4.75	118.75	29.50	38.71	22.22	31.75	61.25	31.00	337.93	2.01%
107	Pharmacy	131.75	169.25	199.75	127.25	123.00	89.00	104.25	165.00	1,109.25	6.59%
108	Psychology	7.50	-	11.75	4.84	11.28	9.75	24.89	17.00	87.01	0.52%
109	Professional Counselors	81.00	74.50	17.50	86.00	50.50	44.78	17.50	57.49	429.27	2.55%
110	Social Work	97.50	6.00	73.00	49.75	75.00	120.50	107.89	69.00	598.64	3.56%
112	Cerified Nurse Aids (State	27.50	59.68	54.00	128.92	102.90	65.00	111.22	100.75	649.97	3.86%
114	Nursing Home Administrator	5.00	16.25	33.00	43.50	10.75	30.50	12.00	38.75	189.75	1.13%
115	Audiology and Speech Lang	0.50	5.75	11.00	6.00	11.75	9.00	2.00	-	46.00	0.27%
116	Physical Therapy	60.25	20.00	12.00	7.25	13.50	14.25	13.75	22.50	163.50	0.97%
118	Va. Pharm Processor Pgm	-	-	-	-					-	0.00%
	Total	2,081.64	2,238.08	2,303.38	2,217.13	1,822.32	1,992.47	2,074.60	2,095.31	16,824.93	

Virginia Department of Health Professions

Input of Case Hours by Department

For Use in Allocation of Department 307- ***Health Practitioners Monitoring Program*** Costs

For the Fiscal Year Ended June 30, 2021

	Fiscal Month No.	1	2	3	4	5	6	7	8
	Month Name	July	August	September	October	November	December	January	February
Dept. No.	Dept. Name								
101	Nursing	235.00	219.00	227.00	224.00	235.00	238.00	225.00	215.00
102	Medicine	103.00	98.00	97.00	95.00	95.00	97.00	97.00	98.50
103	Dentistry	7.00	7.00	7.00	7.00	7.00	8.00	8.00	9.50
104	Funeral Directors and Emba	-	1.00	1.00	1.00	1.00	1.00	1.00	1.00
105	Optometry	3.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
106	Veterinary Medicine	4.00	6.00	6.00	5.00	5.00	5.00	5.00	6.00
107	Pharmacy	14.00	13.00	13.00	12.00	12.00	12.00	13.00	13.00
108	Psychology	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
109	Professional Counselors	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
110	Social Work	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
112	Cerified Nurse Aids (State	4.00	2.00	2.00	1.00	1.00	2.00	2.00	2.00
114	Nursing Home Administrator	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
115	Audiology and Speech Lang	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
116	Physical Therapy	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
118	Va. Pharm Processor Pgm								
	Total	380.00	358.00	365.00	357.00	368.00	375.00	363.00	357.00

Update on Opioid Waiver Requests

In 2020, the General Assembly authorized the Board to grant a waiver of up to 1 year for the electronic transmission of prescriptions containing opioids to a pharmacy. To qualify for such a waiver, the licensee must provide demonstrated economic hardship, technological limitations beyond the licensee's control, or other exceptional circumstances. To date, 2,075 waivers have been issued. The effective date of the law granting the Board the authority to issue waivers was July 1, 2020, so all waivers will expire June 30/July 1, 2021. The upcoming expiration of the waivers was highlighted in the recent Board Briefs. The item ended with: "The Board is aware of but unfamiliar with applications for smartphones that securely transmit prescriptions to a pharmacy. You may wish to explore such options to gain compliance with the law."

Update on Electronic Meetings

In the latter months of 2020, the Board held 12 business meetings virtually. In the first 3 months of 2021, the Board has held 7 virtual business meetings, 1 formal disciplinary hearing, and 1 Credentials Committee hearing for an applicant. The future of meetings after the pandemic is to be determined. The options for meetings going forward appear to be a return to in-person, to continue virtually, or become hybrids of in-person and virtual. To date, the virtual meetings and hearings have gone well with minor technological issues.

Update on Reciprocity with Contiguous Jurisdictions

HB1701 and SB757 from the 2020 General Assembly required the Board of Medicine to explore the possibility of reciprocal licensing for MD's, DO's, PA's and NP's with Virginia's contiguous states. The Board of Nursing contacted the neighboring jurisdictions about NP's. The Board of Medicine found that NC, TN, KY and WV were not interested at this time, but MD and DC were open to discussing reciprocity. The report of the Board's study was submitted to the General Assembly. No bill regarding this issue was filed in the 2021 Session. However, the executive directors of Maryland, the District of Columbia, and Maryland are continuing to discuss how a reciprocity agreement amongst the 3 jurisdictions would look.

Agenda Item:
Regulatory Actions - Chart of Regulatory Actions
As of March 31, 2021

Board	Board of Medicine	
Chapter		**Action / Stage Information**
[18 VAC 85 - 20]	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic	Conversion therapy [Action 5412] Proposed - *Register Date: 2/15/21* *Comment period: 2/15/21 to 4/16/21* *Public hearing: 4/9/21*
[18 VAC 85 - 21]	Regulations Governing Prescribing of Opioids and Buprenorphine	Waiver for e-prescribing of an opioid [Action 5355] Final - *At Governor's Office for 82 days*
[18 VAC 85 - 50]	Regulations Governing the Practice of Physician Assistants	Practice with patient care team physician [Action 5357] Final - *Register Date: 2/15/21* *Effective: 3/16/21*
[18 VAC 85 - 160]	Regulations Governing the Licensure of Surgical Assistants and Registration of Surgical Technologists	Amendments for surgical assistants consistent with a licensed profession [Action 5639] NOIRA – *Comment period: 3/1/21 to 3/31/21*

Board of Medicine

Report on 2021 General Assembly

HB 1737 Nurse practitioners; practice without a practice agreement.

Summary as passed House:

Nurse practitioners; practice without a practice agreement. Reduces from five to two the number of years of full-time clinical experience a nurse practitioner must have to be eligible to practice without a written or electronic practice agreement. The bill has an expiration date of July 1, 2022.

HB 1747 Clinical nurse specialist; licensure of nurse practitioners as specialists, etc.

Summary as passed House:

Clinical nurse specialist; licensure; practice. Changes for clinical nurse specialists the requirement to register with the Board of Nursing as a clinical nurse specialist to licensure by the Boards of Medicine and Nursing to practice as a nurse practitioner in the category of clinical nurse specialist and provides that a nurse practitioner licensed as a clinical nurse specialist shall practice pursuant to a practice agreement between the clinical nurse specialist and a licensed physician and in a manner consistent with the standards of care for the profession and applicable law and regulations. For the transition of registration to licensure, the bill requires the Boards of Medicine and Nursing to jointly issue a license to practice as a nurse practitioner in the category of a clinical nurse specialist to an applicant who is an advance practice registered nurse who has completed an advanced graduate-level education program in the specialty category of clinical nurse specialist and who is registered by the Board of Nursing as a clinical nurse specialist on July 1, 2021.

HB 1817 Certified nurse midwives; practice.

Summary as passed:

Practice of certified nurse midwives. Expands the categories of practitioners with whom a certified nurse midwife may enter into a practice agreement to include other certified nurse midwives who have practiced for at least two years and allows a certified nurse midwife who has practiced at least 1,000 hours to practice without a practice agreement. The bill also provides that certified nurse midwives shall practice in accordance with regulations of the Boards of Medicine and Nursing and consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives and shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

HB 1913 Career fatigue and wellness in certain health care providers; programs to address, civil immunity.

Summary as introduced:

Programs to address career fatigue and wellness in certain health care providers; civil immunity; emergency. Expands civil immunity for health care professionals serving as members of or consultants to entities that function primarily to review, evaluate, or make recommendations related to health care services to include health care professionals serving as members of or consultants to entities that function primarily to address issues related to career fatigue and wellness in health care professionals licensed, registered, or certified by the Boards of Medicine, Nursing, or Pharmacy, or in students enrolled in a school of medicine, osteopathic medicine, nursing, or pharmacy located in the Commonwealth. The bill contains an emergency clause and is identical to SB 1205.

EMERGENCY

HB 1953 Licensed certified midwives; clarifies definition, licensure, etc.

Summary as passed:

Licensed certified midwives; licensure; practice. Defines "practice of licensed certified midwifery," directs the Boards of Medicine and Nursing to establish criteria for the licensure and renewal of a license as a certified midwife, and requires licensed certified midwives to practice in consultation with a licensed physician in accordance with a practice agreement. The bill also directs the Department of Health Professions to convene a work group to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The bill requires the Department to report its findings and conclusions to the Governor and the General Assembly by November 1, 2021. This bill is identical to SB 1320.

HB 1987 Telemedicine; coverage of telehealth services by an insurer, etc.

Summary as passed:

Telemedicine. Requires the Board of Medical Assistance Services to amend the state plan for medical assistance to provide for payment of medical assistance for remote patient monitoring services provided via telemedicine for certain high-risk patients, makes clear that nothing shall preclude health insurance carriers from providing coverage for services delivered through real-time audio-only telephone that are not telemedicine, and clarifies rules around the prescribing of Schedule II through VI drugs via telemedicine, including establishing a practitioner-patient relationship via telemedicine. This bill is identical to SB 1338.

HB 1988 Cannabis oil; processing and dispensing by pharmaceutical processors.

Summary as passed:

Board of Pharmacy; pharmaceutical processors; processing and dispensing cannabis oil. Effects numerous changes to the processing and dispensing of cannabis oil by pharmaceutical processors in the Commonwealth. The bill defines the term "designated caregiver facility" and allows any staff member or employee of a designated caregiver facility to assist with the possession, acquisition, delivery, transfer, transportation, and administration of cannabis oil for any patients residing in the designated caregiver facility. The bill allows written certifications for use of cannabis oil to include an authentic electronic practitioner signature. The bill also eliminates the requirement that a pharmacist have oversight of the cultivation and processing areas of a pharmaceutical processor, instead requiring pharmaceutical processors to designate a person to oversee cultivation and production areas; removes the requirement that a cannabis dispensing facility undergo quarterly inspections, instead requiring that inspections occur no more than once annually; and allows pharmaceutical processors to remediate cannabis oil that fails any quality testing standard. The bill requires pharmaceutical processors to maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. The bill directs the Board of Pharmacy to promulgate regulations implementing the provisions of the bill and regulations creating reasonable restrictions on advertising and promotion by pharmaceutical processors by September 1, 2021.

HB 2039 Physician assistant; eliminates certain requirement for practice.

Summary as passed House:

Practice as a physician assistant. Allows a physician assistant to enter into a practice agreement with more than one patient care team physician or patient care team podiatrist and provides that a patient care team physician or patient care team podiatrist shall not be liable for the actions or inactions of a physician assistant for whom the patient care team physician or patient care team podiatrist provides collaboration and consultation. The bill also makes clear that a student physician assistant shall not be required to be licensed in order to engage in acts that otherwise constitute practice as a physician assistant, provided that the student physician assistant is enrolled in an accredited physician assistant education program.

HB 2061 VIIS; any health care provider in the Commonwealth that administers immunizations to participate.

Summary as introduced:
Virginia Immunization Information System; health care entities; required participation. Requires any health care provider in the Commonwealth that administers immunizations to participate in the Virginia Immunization Information System (VIIS) and report patient immunization history and information to VIIS. Under current law, participation in VIIS is optional for authorized health care entities. The bill has a delayed effective date of January 1, 2022.

HB 2079 Pharmacists; initiation of treatment with and dispensing and administering of drugs and devices.

Summary as passed House:

Pharmacists; initiation of treatment; certain drugs and devices. Expands provisions governing the initiation of treatment with and dispensing and administering of drugs and devices by pharmacists to allow the initiation of treatment with and dispensing and administering of drugs, devices, and controlled paraphernalia to persons 18 years of age or older, in accordance with protocols developed by the Board of Pharmacy in collaboration with the Board of Medicine and the Department of Health, and of (i) vaccines included on the Immunization Schedule published by the Centers for Disease Control and Prevention; (ii) tuberculin purified protein derivative for tuberculosis testing; (iii) controlled substances for the prevention of human immunodeficiency virus, including controlled substances prescribed for pre-exposure and post-exposure prophylaxis pursuant to guidelines and recommendations of the Centers for Disease Control and Prevention; and (iv) drugs, devices, controlled paraphernalia, and other supplies and equipment available over-the-counter, covered by the patient's health carrier when the patient's out-of-pocket cost is lower than the out-of-pocket cost to purchase an over-the-counter equivalent of the same drug, device, controlled paraphernalia, or other supplies or equipment. The bill requires any pharmacist who administers a vaccination pursuant to clause (i) to report such administration to the Virginia Immunization Information System. The bill also (a) requires the Board of Pharmacy, in collaboration with the Board of Medicine and the Department of Health, to establish protocols for the initiation of treatment with and dispensing and administering of drugs, devices, and controlled paraphernalia by pharmacists in accordance with the provisions of the bill by November 1, 2021; (b) requires the Board of Pharmacy, in collaboration with the Board of Medicine, to adopt regulations within 280 days of the bill's enactment to implement the provisions of the bill; and (c) requires the Board of Pharmacy to convene a work group composed of an equal number of representatives of the Boards of Pharmacy and Medicine and other stakeholders to provide recommendations regarding the developing of protocols for the initiation of treatment with and dispensing and administering of certain drugs and devices by pharmacists to persons 18 years of age or older.

HB 2218 Pharmaceutical processors; permits processors to produce & distribute cannabis products.

Summary as passed:

Pharmaceutical processors; cannabis products. Permits pharmaceutical processors to produce and distribute cannabis products other than cannabis oil and for that purpose defines the terms "botanical cannabis," "cannabis product," and "usable cannabis." The bill requires the Board of Pharmacy to establish testing standards for botanical cannabis and botanical cannabis products, establish a registration process for botanical cannabis products, and promulgate emergency regulations to implement the provisions of the bill. The bill provides that if a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. The bill allows the Board of Pharmacy to assess and collect botanical cannabis regulatory fees to cover costs associated with the implementation of the provisions of the bill, including costs for new personnel, training, promulgation of regulations and guidance documents, and information technology. The bill exempts the Board of Pharmacy's acquisition of a commercially available cannabis-specific software product to implement the provisions of the bill from the Virginia Public Procurement Act. This bill is identical to SB 1333.

HB 2220 Surgical technologist; certification, use of title.

Summary as introduced:

Surgical technologist; certification; use of title. Provides that no person shall hold himself out to be a surgical technologist or use or assume the title of "surgical technologist" or "certified surgical technologist" unless such person is certified by the Board of Medicine; currently, a person must be registered with the Board of Medicine to use the title "registered surgical technologist." The bill also (i) adds a requirement that an applicant whose certification is based on his holding a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting also demonstrate that he has successfully completed an accredited surgical technologist training program and (ii) provides that the Board of Medicine may certify a person who has practiced as a surgical technologist at any time in the six months prior to July 1, 2021, provided that he registers with the Board of Medicine by December 31, 2021.

SB 1178 Genetic counseling; repeals conscience clause.

Summary as introduced:
Genetic counseling; conscience clause. Repeals the conscience clause for genetic counselors who forgo participating in counseling that conflicts with their deeply held moral or religious beliefs, provided that they inform the patient and offer to direct the patient to the online directory of licensed genetic counselors maintained by the Board of Medicine. The law being repealed also prohibits the licensing of any genetic counselor from being contingent upon participating in such counseling.

SB 1187 Physical therapy; extends time allowed for a therapist to evaluate and treat patients.

Summary as introduced:
Department of Health Professions; practice of physical therapy. Extends from 30 days to 60 days the time allowed for a physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization to evaluate and treat patients after an initial evaluation without a referral under certain circumstances. The bill also provides that after discharging a patient a physical therapist shall not perform an initial evaluation of a patient without a referral if the physical therapist has performed an initial evaluation of the patient for the same condition within the immediately preceding 60 days.

SB 1189 Occupational therapists; licensure.

Summary as passed Senate:

Licensure of occupational therapists; Occupational Therapy Interjurisdictional Licensure Compact. Authorizes Virginia to become a signatory to the Occupational Therapy Interjurisdictional Licensure Compact. The Compact permits eligible licensed occupational

therapists and occupational therapy assistants to practice in Compact member states, provided that they are licensed in at least one member state. The bill has a delayed effective date of January 1, 2022, and directs the Board of Medicine to adopt emergency regulations to implement the provisions of the bill. The Compact takes effect when it is enacted by a tenth member state.

SB 1406 Marijuana; legalization of simple possession, etc.

Summary as passed:

Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses. The bill creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates, and numerous provisions of the bill are subject to reenactment by the 2022 Session of the General Assembly.

Board of Medicine
Regulatory/Policy Actions – 2021 General Assembly

EMERGENCY REGULATIONS:

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
SB1189	Occupational therapy compact	Medicine	8/6/21	

EXEMPT REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1737	Revise autonomous practice reg consistent with 2 years	Nursing & Medicine	N – 7/20/21 M – 8/6/21	
HB1747	Licensure of CNS as nurse practitioners – Amend Chapters 30 and 40 Delete sections of Chapter 20 with reference to registration of CNS	Nursing & Medicine	N – 7/20/21 M – 8/6/21	
HB1817	Autonomous practice for CNMs with 1,000 hours	Nursing & Medicine	N – 7/20/21 M – 8/6/21	
HB2039	Conform PA regs to Code	Medicine	10/14/21	
HB2220	Change registration of surgical technologists to certification	Medicine	10/14/21	
SB1178	Delete reference to conscience clause in regs for genetic counselors	Medicine	10/14/21	

APA REGULATORY ACTIONS

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1953	Licensure of certified midwives	Nursing & Medicine	NOIRA Nursing – 7/20/21 Medicine – 8/6/21	Unknown

NON-REGULATORY ACTIONS

Legislative source	Affected agency	Action needed	Due date
HB1747	Nursing & Medicine	Notification to registered certified nurse specialists that they must have a practice agreement with a physician before licensure as a nurse practitioner as of July 1, 2021	After March 31, 2021
HB793 (2018)	Medicine & Nursing	To report data on the number of nurse practitioners who have been	November 1, 2021

		authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement	
SB431	Behavioral health/medicine/legal	Continuance of study of mental health services to minors and access to records *Requested an extension of 2020 study*	November 1, 2021
Budget bill	Department	To study and make recommendations regarding the oversight and regulation of advanced practice registered nurses (APRNs). The department shall review recommendations of the National Council of State Boards of Nursing, analyze the oversight and regulations governing the practice of APRNs in other states, and review research on the impact of statutes and regulations on practice and patient outcomes.	November 1, 2021
HB1953	Department	To convene a work group to study and report on the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals.	November 1, 2021
HB1987	Boards with prescriptive authority	Revise guidance documents with references to 54.1-3303	As boards meet after July 1
HB2079	Pharmacy (with Medicine & VDH)	To establish protocols for the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment available over-the-counter by pharmacists in accordance with § 54.1-3303.1. Such protocols shall address training	Concurrent with emergency regulations

		and continuing education for pharmacists regarding the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment.	
HB2079	Pharmacy (includes Medicine)	To convene a work group to provide recommendations regarding the development of protocols for the initiation of treatment with and dispensing and administering of drugs, devices, controlled paraphernalia, and supplies and equipment by pharmacists to persons 18 years of age or older, including (i) controlled substances, devices, controlled paraphernalia, and supplies and equipment for the treatment of diseases or conditions for which clinical decision-making can be guided by a clinical test that is classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988, including influenza virus, urinary tract infection, and group A Streptococcus bacteria, and (ii) drugs approved by the U.S. Food and Drug Administration for tobacco cessation therapy, including nicotine replacement therapy. The work group shall focus its work on developing protocols that can improve access to these treatments while maintaining patient safety.	November 1, 2021

Future Policy Actions:

HB2559 (2019) - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by **November 1, 2022**.

Agenda Item: **Guidance document – Reaffirmation of 85-14**

Staff note:

Guidance documents must be reviewed and reaffirmed, amended or repealed every four years. Staff recommends the Board reaffirm the current guidance.

Action:

To reaffirm 85-14 as included in the agenda package

Guidance Document: 85-14 Adopted: June 18, 2015

Board of Medicine

Procedure for Enforcement of Continuing Competency Requirements

Should a licensee not complete continuing competency requirements and it is determined that this is the first time and that the conduct is not willful or intentional, the Board will offer a Confidential Consent Agreement (CCA) that will allow the licensee to immediately obtain the missing hours. Original documentation of said missing hours shall be returned with the signed CCA.

Should it be determined that the conduct is willful or intentional, or it is the second or more occurrence for this violation, the Board of Medicine will proceed with an informal conference or offer a pre-hearing consent order and shall consider the previous violations. Suggested sanctions include a $100 monetary penalty for each missing hour and a $300 monetary penalty for each fraudulent renewal certifying that the licensee meets the renewal requirements. In addition the licensee will be required to complete the missing hours with documentation submitted to the Board within 60 days of order entry.

This procedure does not preclude the auditing and special handling of continuing competency non-compliance as may be specified in a Board order.

Agenda Item: Recommendation from the Legislative Committee regarding the Interstate Medical Licensure Compact (IMLC)

Staff Note: On January 15, 2021, the Legislative Committee considered the posture the Board of Medicine should have on the IMLC and recommended not to join at this time. The data considered is found on the next 2 pages.

Action: To confirm or reject the recommendation not to join the IMLC at this time.

Recommendation from the Legislative Committee re: Interstate Medical Licensure Compact 1-2

On January 15, 2021, the Legislative Committee of the Virginia Board of Medicine met virtually and discussed, among other items, the Interstate Medical Licensure Compact (Compact). As HJ531 has been tabled, it would not appear that this information needs to be communicated to the Joint Commission on Health Care. Rather, this document can serve as a record of the Board's 2021 analysis on participation in the Compact.

Recommendation to the Board

The Legislative Committee's recommendation, based upon the following information, is not to join the Interstate Medical Licensure Compact (Compact) at this time.

The Compact

- Conceived in 2013
- Developed with input from interested state boards
- Interstate Medical Licensure Compact Commission oversees operations
- First license issued in April 2017

Medical Board Participation

- 29 states, DC and Guam are members of the Compact
- Compact rules override state law and regulation
- State must join for physicians in the state to utilize the Compact to obtain licenses
- Revisions to the licensing process must be approved by the Commission

Physician Participation

- Application to the Compact to seek licensure in another Compact state
- Compact Application fee is $700
- Applicant also pays the fee of the state in which licensure is sought ($75-$790)
- Home state prepares a Letter of Qualification
- Fee for additional license applications through the Compact is $100
- Letter of Qualification good for 1 year
- Renewal of licenses handled by the Compact

Recommendation from the Legislative Committee re: Interstate Medical Licensure Compact 2-2

Board of Medicine Concerns in 2016

- Required to share any confidential complaint and investigative information
- Cost of the process to the applicant
- Cost of the process to the Board
- Board could equal the time to licensure with an endorsement pathway
- Legislative Committee recommended regulations for licensure by endorsement

Interstate Medical Licensure Compact Commission Data Study 2020

- Total number of licenses issued since April 2017 – 14,868 (November 30, 2020)
- Total number of physicians that have applied – 8,271 (November 30, 2020)
- Average number of licenses obtained per applicant in 2020 – 1.6
- Percent of physicians that obtained 1 or 2 licenses – 80%
- Percent of physicians that obtained 3 or more licenses – 20%
- Average number of days from application to licensure – 57

Utilization of the Compact

- Approximate number of licensed physicians in the United States – 1,000,000
- Number of physicians that have obtained licenses through the Compact – 8,271
- Percentage of physicians that have obtained licenses through the Compact – 0.83%

Licensure by Endorsement

- Expeditious licensure for seasoned, Board Certified applicants with no adverse info
- Application posted December 26, 2018
- To date, over 900 licenses have been issued through endorsement
- Number of MD's and DO's with active licenses – 41,126
- Percentage of active licenses obtained through endorsement – 2.14%
- Average days from application to licensure – MD's - 51.5 DO's – 49.75
- Application fee - $302
- Board has the ability to adjust the process as needed

Agenda Item: Recommendation from the Advisory Board on Midwifery

Staff Note: At the January 29, 2021 meeting of the Advisory Board on Midwifery, the members addressed the need to revise Guidance Document 85-10 Disclosures by Licensed Midwives for High-Risk Pregnancy Conditions. The Advisory discussed what it saw as reasonable, evidence-based edits which are found in the following pages. Guidance Document 85-10 was a joint effort of the Advisory and the Board of Medicine. That approach should be used for the revision of the document.

Action: To approve the formation of a work group of 3 Advisory Board members and 3 Board of Medicine members to review and revise Guidance Document 85-10.

Guidance document: 85-10 Revised: October 22, 2015

Disclosures by Licensed Midwives for High-Risk Pregnancy Conditions

Virginia Board of Medicine

The Code of Virginia (Law) requires that licensed midwives "disclose to their patients, when appropriate, options for consultation and referral to a physician and evidence-based information on health risks associated with birth of a child outside of a hospital or birthing center." Regulations for Licensed Midwives specify that:

> *Upon initiation of care, a midwife shall review the client's medical history in order to identify pre-existing conditions or indicators that require disclosure of risk for home birth. The midwife shall offer standard tests and screenings for evaluating risks and shall document client response to such recommendations. The midwife shall also continually assess the pregnant woman and baby in order to recognize conditions that may arise during the course of care that require disclosure of risk for birth outside of a hospital or birthing center.*

The risk factors or conditions that require disclosures are listed in regulation. If any of these conditions or factors are presented, the midwife is to:

> *1) Request and review the client's medical history, including records of the current or previous pregnancies;*
>
> *2) Disclose to the client the risks associated with a birth outside of a hospital or birthing center; and*
>
> *3) Provide options for consultation and referral.*

Regulations require that if the risk factors or criteria have been identified that may indicate health risks associated with birth of a child outside a hospital or birthing center, the midwife must provide evidence-based information on such risks and must document in the client record the assessment of all health risks that pose a potential for a high risk pregnancy and, if appropriate, the provision of disclosures and evidence-based information. **The disclosure for intrapartum risk factors should be given to a client at the first prenatal visit.**

For each of the risk factors or conditions identified, this guidance document provides evidence-based information and a format to record in a client's record the disclosure of information and options for consultation and referral.

To access the evidence-based information and disclosure for a particular conditions or risk factor, click on the link in the index below. The midwife may then print the form for that condition or risk factor for presentation and discussion with the client and have the form signed for inclusion in the client record.

A Work Group comprised of members of the Board of Medicine and the Advisory Board on Midwifery has developed this information to assist licensed midwives in satisfying the requirements of Code Section 54.1-2957.9(iv), which requires midwives to disclose to their patients options for consultation and referral to a physician and evidence-based information on health risks associated with the birth of a child outside of a hospital. This information does not constitute medical advice, diagnosis, opinion or treatment. Individuals should consult a qualified health care provider for advice regarding a medical condition.

Intrapartum Risk Factors

1. Abnormal fetal cardiac rate or rhythm
2. Active cancer
3. Acute or chronic thrombophlebitis
4. Anemia (hematocrit less than 30 or hemoglobin less than 10 at term)
5. Any pregnancy with abnormal fetal surveillance tests
6. Blood coagulation defect
7. Body Mass Index (BMI) equal to or greater than 30
8. Cardiac disease
9. Chronic obstructive pulmonary disease including asthma
10. Ectopic pregnancy
11. Essential chronic hypertension over 140/90
12. Genital herpes or partner with genital herpes
13. History of hemoglobinopathies
14. HIV positive status with AIDS
15. Inappropriate fetal size for gestation – Macrosomia (Large for gestational age)
16. Inappropriate fetal size for gestation – IUGR (Small for gestational age)
17. Incomplete spontaneous abortion
18. Isoimmunization to blood factors
19. Multiple gestation
20. Persistent severe abnormal quantity of amniotic fluid
21. Platelet count less than 120,000
22. Position presentation other than vertex at term or while in labor
23. Pre-eclampsia/eclampsia
24. Pregnancy lasting longer than 42 completed weeks with an abnormal non-stress test
25. VBAC (vaginal birth after cesarian) previous uterine incision or myomectomy
26. Psychiatric disorders (Mental Health Disorders)
27. Rupture of membranes 24 hours before the onset of labor
28. Seizure disorder requiring prescriptive medication

29. Severe liver disease -- active or chronic
30. Severe renal disease - active or chronic
31. Significant 2nd or 3rd trimester bleeding
32. Significant glucose intolerance (Preexisting diabetes, gestational diabetes, PCOS)
33. Uncontrolled hyperthyroidism
34. Uterine ablation (endometrial ablation)
35. Uterine anomaly

High Risk Pregnancy Disclosure Recommended Updates

The following revisions and updates have been recommended by Kim Pekin, CPM and Becky Banks, CPM:

Documents 1 through 6, no recommended updates.

(Kim Pekin) Document 7. Body Mass Index (BMI) Equal to or Greater than 30
There is a strikethrough on the second page "higher risk of having ~~babies~~ diabetes in the future." Recommend removing strikethrough and the underline in the word "diabetes."

There are no references cited on this disclosure. Recommendation to reference this journal article that includes most of the claims in the HRP Disclosure:

Bhattacharya, Sohinee, et al. "Effect of Body Mass Index on pregnancy outcomes in nulliparous women delivering singleton babies." BMC public Health 7.1 (2007): 168.

(Kim Pekin) 9. Chronic Obstructive Pulmonary Disease Including Asthma
The citation is incorrect. Correct citation is:

Leighton, B, Fish, J, *Glob. libr. women's med., (ISSN: 1756-2228)* 2008; DOI 10.3843/GLOWM.10170

(Kim Pekin) 10. Ectopic Pregnancy
Reference no longer online. Recommend this citation:

Sivalingam VN, Duncan WC, Kirk E, *et al*, Diagnosis and management of ectopic pregnancy, *Journal of Family Planning and Reproductive Health Care* 2011;**37**:231-240.

(Kim Pekin) 11. Essential Chronic Hypertension
Citation no longer works. Recommend this citation:

Bramham, Kate, et al. "Chronic hypertension and pregnancy outcomes: systematic review and meta-analysis." Bmj 348 (2014).

(Becky Banks) 12. Genital Herpes

Suggest adding an extra paragraph detailing the difference in infection rate between primary/first-episode (nonprimary), vs recurrent, vis a vis:

"Accurate classification is particularly important because a newly acquired infection (primary or nonprimary first-episode) near the time of delivery is a major risk for transmission to the neonate."

"In two case series of women cultured on admission and subsequently found positive, the frequency of neonatal infection ranged from 31% to 44% for primary and first-episode, and 1 to 3% in recurrent."

"Use of invasive fetal monitoring and preterm birth increase risk of neonatal infection in patients with viral shedding."

Brown ZA, Wald A, Morrow RA, Selke S, Zeh J, Corey L. Effect of serological status and cesarean delivery on transmission rates of herpes simplex virus from mother to infant. JAMA. 2003;289(2):203.
Need a page break after #14 (HIV/AIDS)

(Kim Pekin) 17. Incomplete Spontaneous Abortion or Incomplete Miscarriage
Links no longer work. Change references to:

Metz, Torri D., et al. "Obstetric care consensus# 10: management of stillbirth:(replaces practice bulletin number 102, March 2009)." *American journal of obstetrics and gynecology* 222.3 (2020): B2-B20.

American College of Obstetricians and Gynecologists' Committee on Practice Bulletins—Gynecology. "ACOG Practice Bulletin No. 200: Early Pregnancy Loss." *Obstetrics and gynecology* vol. 132,5 (2018): e197-e207. doi:10.1097/AOG.0000000000002899

(Becky Banks) 18. Isoimmunization

Suggested, or similar:

Widespread use of anti-D immune globulin for prevention of D has decreased the risk of isoimmunization. Routine treatment includes prophylactic dosage at 28 weeks of gestation and after delivery of a D-positive newborn. Testing for Rh typing should be performed with every pregnancy because revisions in lab procedures may present as a change in the Rh blood type.

Sandler SG, Li W, Langeberg A, Landy HJ. New laboratory procedures and Rh blood type changes in a pregnant woman. Obstet Gynecol. 2012;119(2 Pt 2):426.

(Becky Banks) 21. Platelet Count

It is suggested that the section regarding HELLP syndrome in this consent document be duplicated including reference in #23

(Becky Banks) 22. Position Presentation other than vertex [should this be struck and replaced with cephalic?]

Non-vertex presentations occur in less than 4% of all pregnancies. This would include breech, brow [vertex, non-cephalic]; face [vertex, non-cephalic], transverse lie, and compound presentations. Non-vertex (should we change this to non-cephalic?) presentations are associated with congenital abnormalities of the baby, multiple pregnancies, placenta previa, and uterine anomalies. These associations would (strike this out, replace with may) increase risk to the mother/baby in addition to the actual risks associated with non-vertex delivery.

C-section has become the standard mode of deliveries for babies in non-vertex positions. Physicians and midwives may not have adequate training in the vaginal delivery of non-vertex presentations further increasing the risk of injury or death to both mother and baby. A transverse presentation is considered incompatible with vaginal delivery. Posterior, Brow, and Face presentations are associated with complicated delivery and increased maternal and/or fetal complications and may require C-section if the fetal position cannot be rotated.

(suggested new paragraph) " There are efforts being made internationally to bring back training for vaginal breech birth to be available in all settings, especially under specific practice guidelines and with a trained provider, including efforts to gather research regarding training with models in subsequent clinical practice."

Fischbein and Freeze BMC Pregnancy and Childbirth (2018) 18:397
Hereafter would follow the risks as listed and other references.

(Becky Banks) 23. Pre-Eclampsia/Eclampsia

HELLP syndrome: an acute condition occurring in up to 2% of pregnancies, usually seen in the setting of pre-eclampsia, and characterized by:

- thrombocytopenia
- elevated liver enzymes
- hemolytic anemia
- potential for severe maternal illness including: liver failure, hepatic supscapular hematoma, excess maternal blood loss, seizure, maternal death, preterm birth, intrauterine growth restriction, fetal death.

reference is #21, ICD on platelet count

(Kim Pekin) 25. VBAC

The article referenced in the disclosure is not a peer reviewed journal article. I recommend these references:

Asakura H, Myers SA. More than one previous cesarean delivery: a 5-year experience with 435 patients. Obstet Gynecol 1995;85:924–9.

Cahill AG, Tuuli M, Odibo AO, Stamilio DM, Macones GA. Vaginal birth after caesarean for women with three or more prior caesareans: assessing safety and success. BJOG 2010;117:422–7.

Caughey AB, Shipp TD, Repke JT, Zelop CM, Cohen A, Lieberman E. Rate of uterine rupture during a trial of labor in women with one or two prior cesarean deliveries. Am J Obstet Gynecol 1999;181:872–6.

Chauhan SP, Magann EF, Carroll CS, Barrilleaux PS, Scardo JA, Martin JN Jr. Mode of delivery for the morbidly obese with prior cesarean delivery: vaginal versus repeat cesarean section. Am J Obstet Gynecol 2001;185:349–54.

Development Maternal-Fetal Medicine Units Network. Obstet Gynecol 2006;108:12–20.

Flamm BL, Newman LA, Thomas SJ, Fallon D, Yoshida MM. Vaginal birth after cesarean delivery: results of a 5-year multicenter collaborative study. Obstet Gynecol 1990;76:750–4.

Gregory KD, Korst LM, Fridman M, Shihady I, Broussard P, Fink A, et al. Vaginal birth after cesarean: clinical risk factors associated with adverse outcome. Am J Obstet Gynecol 2008;198:452.e1–10; discussion 452.e10–2.

Landon MB, Spong CY, Thom E, Hauth JC, Bloom SL, Varner MW, et al. Risk of uterine rupture with a trial of labor in women with multiple and single prior cesarean delivery. National Institute of Child Health and Human Development Maternal-Fetal Medicine Units Network. Am J Obstet Gynecol 2005;193:1016–23.

Lavin JP, Stephens RJ, Miodovnik M, Barden TP. Vaginal delivery in patients with a prior cesarean section. Obstet Gynecol 1982;59:135–48.

Macones GA, Cahill A, Pare E, Stamilio DM, Ratcliffe S, Stevens E, et al. Obstetric outcomes in women with two prior cesarean deliveries: is vaginal birth after cesarean delivery a viable option? Am J Obstet Gynecol 2005;192:1223–8.

McMahon MJ, Luther ER, Bowes WA Jr, Olshan AF. Comparison of a trial of labor with an elective second cesarean section. N Engl J Med 1996;335:684-95.

Miller DA, Diaz FG, Paul RH. Vaginal birth after cesarean: a 10-year experience. Obstet Gynecol 1994;84:255–8.

Signore, Caroline, and Catherine Y. Spong. "Vaginal birth after cesarean: new insights manuscripts from an NIH consensus development conference, March 8–10, 2010." Seminars in perinatology. Vol. 34. No. 5. NIH Public Access, 2010.

Tahseen S, Griffiths M. Vaginal birth after two caesarean sections (VBAC-2)-a systematic review with meta-analysis of success rate and adverse outcomes of VBAC-2 versus VBAC-1 and repeat (third) caesarean sections. BJOG 2010;117:5–19. (Meta-analysis)

(Kim Pekin) 27. Rupture of Membranes 24 Hours Before the Onset of Labor
The links really should include the journal articles referenced, rather than the hyperlink to the PubMed article. Recommended references:

Association of Ontario Midwives, Management of Prelabour Rupture of Membranes at Term, Clinical Practice Guideline 13, May 2014.

Gunn G, Mishell D, Morton D. Premature rupture of the fetal membranes. Am J Obs Gyne 1970 Feb;106(3):469.

Hannah ME, Ohlsson A, Wang EE, Matlow A, Foster GA, Willan AR, et al. Maternal colonization with group B Streptococcus and prelabor rupture of membranes at term: the role of induction of labor. TermPROM Study Group. Am.J.Obstet.Gynecol. 1997 Oct;177(4):780-785.

Seaward PG, Hannah ME, Myhr TL, Farine D, Ohlsson A, Wang EE, et al. International Multicentre Term Prelabor Rupture of Membranes Study: evaluation of predictors of clinical chorioamnionitis and postpartum fever in patients with prelabor rupture of membranes at term. American Journal of Obstetrics & Gynecology 1997 Nov;177(5):1024-1029.

Tita, Alan T N, and William W Andrews. "Diagnosis and management of clinical chorioamnionitis." Clinics in perinatology vol. 37,2 (2010): 339-54. doi:10.1016/j.clp.2010.02.003

Umans-Eckenhausen, M. A., and Harrie N. Lafeber. "Prolonged rupture of membranes and transmission of the human immunodeficiency virus." *The New England journal of medicine* 335.20 (1996): 1533-1534.

(Kim Pekin and Becky Banks) 33. Uncontrolled Hyperthyroidism
Updated references:
Casey, Brian M., and Kenneth J. Leveno. "Thyroid disease in pregnancy." Obstetrics & Gynecology 108.5 (2006): 1283-1292.

American Thyroid Association (ATA): Guidelines of the American Thyroid Association for the Diagnosis and Management of Thyroid Disease During Pregnancy and Postpartum (2017). Topic 112934, Version 7.0

(Becky Banks) #34 Uterine Ablation (Endometrial Ablation):
Recommend updated statement:

Endometrial Ablation is a procedure accompanied by sterilization or the strong recommendation for continuous contraception. Pregnancy after ablation is rare and therefore there is little research, and the maternal and fetal complications are poorly defined. General recommendations are pregnancy is contra-indicated once endometrial ablation has been performed.

Maternal risks:

- Miscarriage
- Ectopic pregnancy
- Placenta accreta
- Manual/Surgical removal of placenta
- Hemorrhage
- Uterine rupture
- C-section
- Hysterectomy
- Death

Fetal Risks:

- Prematurity
- Death
- Possible increase in anomalies
- Malpresentation

(Kim Pekin and Becky Banks) 35. Uterine Anomaly
Citation missing. Should be:

Hua M, Odibo AO, Longman RE, et al. Congenital uterine anomalies and adverse pregnancy outcomes. Am J Obstet Gynecol 2011;205:558.e1-5

Recommended update:
The frequency of uterine anomaly is unknown, but appears to be about 3 to 8 percent in an unselected population. Women with a uterine anomaly (uterine septum, unicornuate or bicornuate uterus, uterine didelphys) are at risk for:

- PTB (preterm birth)
- Fetal presentation other than vertex
- Hemorrhage
- Retained placenta
- Kidney malformation
- Miscarriage
- Restricted fetal growth
- Unusual presentation
- Cesarean delivery
- Pregnancy-associated hypertension

Laufer, M, DeCherney, A. Congenital Uterine Anomalies: Clinical Manifestations and Diagnosis, Dec 2019.

Agenda Item: Recommendations from Board staff on the Licensure by Endorsement Pathway

Staff Note: The staff asks consideration that the question about malpractice be revised and also that a more relevant method of tracking licensure by endorsement be initiated. These issues and the rationales for the changes are described in the following pages.

Action: Vote to accept both, one, or none of the recommendations.

Licensure by Endorsement Question about Malpractice

Licensure by Endorsement is meant to be the express train for highly qualified individuals. The application is to be pristine and have no basis for denial based on Code of Virginia Section 54.1-2915. The qualifications are:

18VAC85-20-141. Licensure by endorsement.

To be licensed by endorsement, an applicant shall:

1. Hold at least one current, unrestricted license in a United States jurisdiction or Canada for the five years immediately preceding application to the board;

2. Have been engaged in active practice, defined as an average of 20 hours per week or 640 hours per year, for five years after postgraduate training and immediately preceding application;

3. Verify that all licenses held in another United States jurisdiction or in Canada are in good standing, defined as current and unrestricted, or if lapsed, eligible for renewal or reinstatement;

4. Hold current certification by one of the following:

a. American Board of Medical Specialties;

b. Bureau of Osteopathic Specialists;

c. American Board of Foot and Ankle Surgery;

d. American Board of Podiatric Medicine;

e. Fellowship of Royal College of Physicians of Canada;

f. Fellowship of the Royal College of Surgeons of Canada; or

g. College of Family Physicians of Canada;

5. Submit a current report from the U.S. Department of Health and Human Services National Practitioner Data Bank; and

6. Have no grounds for denial based on provisions of § **54.1-2915** of the Code of Virginia or regulations of the board.

Denial based on a malpractice(s) report falls under 54.1-2915 prong of the regulation. The question on malpractice in the traditional application asks: **Have you had any malpractice suits brought against you in the past ten (10) years?**

That language was imported to the endorsement application, which now reads:

Have you had any malpractice suits brought against you in the past ten (10) years?

Historically, the Board does not take action on malpractice cases closed without a payment. Only 10 years of cases are asked for in the traditional pathway. The requirement in endorsement for a report from the National Practitioner Data Bank will include malpractice cases that may be decades old. So the NPDB report does two things. The first is a deeper dive into past malpractice cases that may be outside the 10-year timeframe. The second is that it creates a less than pristine picture for the malpractice question.

Staff suggests more specific language that is designed to identify problematic cases, past and present, in the last 10 years.

Have you had any malpractice paid claims in the last 10 years, or do you have any pending malpractice suits?

Actually, this language provides greater protection by expanding the question to clinical missteps that occurred more than 10 years ago, since claims sometimes take years to pay. And by adding "pending" suits, a barrier is created for suits that have not yet been paid, but may in the future. It would also identify cases that were "brought" a little over 10 years ago and are therefore, still pending. The Board became aware of such a "loophole" recently. As with all other questions 4 through 17, a "yes" answer would be disqualifying and direct the applicant to the traditional pathway.

Staff also believes that this proposed language should also be incorporated into the traditional application for the reasons stated above.

Application to Issuance Times

The Board decided in 2016 that it would not recommend joining the Interstate Medical Licensure Compact (IMLC) at that time. In 2021, the Legislative Committee reached the same conclusion, not to recommend joining the IMLC at this time. However, the Board may be asked to reconsider its decisions in the future, and the application to issuance times have been, and will be, pertinent to the Board's considerations. The recommendation from staff seeks to be more specific in its data analysis of licensure times for future Board consideration.

The Licensure by Endorsement application was placed on the website December 26, 2018. Since that time, 853 licenses have been issued through this pathway.

During the 2+ years of experience with endorsement, the applicants appear to fall into 2 distinct groups. The first is those that wish to get an expedited license. The second is those that choose the pathway requiring the least documentation to be submitted to the Board, regardless of how long the process takes.

About the process. Whether the individual applies through the traditional pathway or endorsement, the time that it will take from the Board's receipt of the application to the issuance of the license is entirely dependent upon the efforts of the applicant. It is incumbent upon the applicant to submit, or have submitted, the required documents to the Board to complete the application. Once the application is complete, it is reviewed by the licensing specialist, and if need be, by the Deputy for Licensure or a Board member. Review usually results in issuance of the license, but may require more information from the applicant.

The endorsement pathway is intended for qualified applicants that want to obtain a license as quickly as possible. The record time to issuance of a license through endorsement for a physician that submitted all required documentation with her application was 1 day. So the pathway works as intended.

However, those in the second group can submit an application and allow it to languish for 250 days or more. It is this phenomenon that staff believes skews the endorsement data unnecessarily.

Given that the intention of endorsement is to make an expedited pathway available to qualified applicants, and that the Board will need to be able to assess the pathway's effectiveness in the future, staff suggests that there be a binary count. As there are 2 groups that apply through endorsement, staff would suggest that the true measure of the pathway would be those that are issued a license in 45 days or less. An applicant that takes over 45 days to submit the required documentation appears not really interested in getting a license quickly. So staff suggests 2 groups of data, those licensed in 45 days or less and those licensed in over 45 days. For the purpose of assessing speed and effectiveness, the 45 and under data would be most accurate and useful in future considerations of the Board.

Next Meeting Date of the Executive Committee is

August 6, 2021

Please check your calendars and advise staff of any known conflicts that may affect your attendance.

If you are not a state employee, you are eligible for a $50.00 per diem and reimbursement of your mileage.

The travel regulations require that "travelers must submit the Travel Expense Reimbursement Voucher with 30 days after completion of their trip". (CAPP Topic 20335, State Travel Regulations, p.7)

In order for the agency to be in compliance with the state travel regulations, please submit your request for today's meeting no later than

May 9, 2021

See Co-Co for guidelines on submitting your travel voucher electronically.

SUPPLEMENTAL INFORMATION

MSV℠ MEDICAL SOCIETY OF VIRGINIA

2924 Emerywood Parkway
Suite 300
Richmond, VA 23294

TF 800|746-6768
FX 804|355-6189

www.msv.org

VIA Email: william.harp@dhp.virginia.gov
William L. Harp, MD
Executive Director
Board of Medicine
9960 Mayland Drive, Suite 300
Henrico, VA 23233

Re: Friday, April 9, 2021 Executive Committee meeting of the Board of Medicine

Dear Dr. Harp:

I trust this letter finds you well. I am writing on behalf of the Medical Society of Virginia (MSV) to submit comments for consideration by the Executive Committee of the Virginia Board of Medicine (Board) at their meeting on Friday, April 9. Since the meeting is going to be virtual, I thought it best not to trespass on the Committee's time offering testimony, but instead submit this letter and ask that you disseminate it to the Board members.

The MSV would like to comment on two agenda items, those being: 1) consideration of the recommendation of the legislative committee of the Board on the Physician Interstate Medical Licensure Compact; and 2) the proposed revisions to questions surrounding licensure by endorsement.

Interstate Medical Licensure Compact

The MSV has reviewed and followed the Interstate Medical Licensure Compact (Compact) since its inception. Over the years, we have had numerous communications with the Board and others concerning the Compact and continually have addressed the question of whether Virginia should consider joining the Compact. Initial concerns of how the Compact was structured and operated prompted the MSV to agree with the Board that the Compact was not in appropriate form for the Commonwealth to consider joining. Two initial concerns stemmed from the additional licensure fees that would be borne by physicians in Virginia, and concerns over how disciplinary actions were handled in Virginia and may be relitigated through the Compact. While there have been some operational revisions to the Compact over the years, these primary concerns remain. Accordingly, we concur with the findings of the Legislative Committee of the Board and respectfully request that the Executive Committee of the Board accept the recommendation of the Legislative Committee not to join the Compact at this time.

Licensure by Endorsement

The MSV has always been supportive of licensure by endorsement. We were grateful to be able to work with the Board in development of regulations to flesh out the Board's statutory authority to issue licenses by endorsement. Feedback from our members indicates licensure by endorsement is very successful and, in many instances, a license can be issued by the Board at a speed that far exceeds the time for licensure were Virginia to be a member of the Compact.

Dr. Harp, we greatly appreciate your personal commitment to make licensure by endorsement a success.

It is our understanding that staff has reviewed the questions, and qualifications for an applicant to avail themselves to the licensure by endorsement process. Specifically, we have reviewed the recommendations of staff to revise the question regarding medical malpractice actions, and have that question more narrowly phrased to focus on “paid claims or pending claims.” We are supportive of this revision and think it more accurately reflects the information the Board needs to obtain in order to protect the public and at the same time, does not unfairly disqualify an applicant solely because a patient decided to file a frivolous or retribution medical malpractice lawsuit. Accordingly, we would ask the Board to accept staff’s recommendation.

As always, the MSV greatly appreciates the work of the Board and looks forward to working with you on these matters as well as others.

Very truly yours,

Clark Barrineau
Assistant Vice President of Government Affairs and Policy
The Medical Society of Virginia

cc: W. Scott Johnson, Esquire/Hancock, Daniel & Johnson, PC
Tyler S. Cox, Government Affairs Manager/Hancock, Daniel & Johnson, P.C.
Benjamin H. Traynham, Esquire/Hancock, Daniel & Johnson, PC
Scott Castro, Director of Health Policy/MSV