

**VIRGINIA BOARD OF HEALTH PROFESSIONS  
DEPARTMENT OF HEALTH PROFESSIONS  
FULL BOARD MEETING  
SEPTEMBER 8, 2005**

**TIME AND PLACE:** The meeting was called to order at 1:00 p.m. on Thursday, September 8, 2005, at the Department of Health Professions, 6603 W. Broad St., 5<sup>th</sup> Floor, Room 1, Richmond, VA.

**PRESIDING OFFICER:** Alan Mayer, Chair

**MEMBERS PRESENT:** David R. Boehm, L.C.S.W.  
Lynne M. Cooper, Citizen Member, Nursing  
Mary Gregerson, Ph.D.  
David H. Hettler, O.D.  
Damien Howell, P.T.  
Janet Payne, Citizen Member  
Michael W. Ridenhour, Au.D.  
Harry S. Seigel, D.D.S.  
Mary M. Smith, N.H.A.  
Joanne Taylor, Citizen Member  
Lucia Anna Trigiani, Esq., Citizen Member  
Natale A. Ward, L.P.C.

**MEMBERS NOT PRESENT:** Michelle R. Easton, R. Ph.  
Joseph Jenkins, Jr., F.S.L.  
Juan M. Montero, II, M.D.  
Demis L. Stewart, Citizen Member  
John T. Wise, D.V.M.

**STAFF PRESENT:** Gail Jaspen, Deputy Director, DHP  
Emily Wingfield, Assistant Attorney General  
Elizabeth A. Carter, Ph.D., Executive Director for the Board  
Elaine Yeatts, Senior Regulatory Analyst  
Susan Stanbach, Senior Management Analyst  
Faye Lemon, Director, Enforcement  
Carol Stamey, Administrative Assistant

**OTHERS PRESENT:** There were no others present.

**QUORUM:** With thirteen (13) members present, a quorum was established.

**WELCOME NEWEST BOARD MEMBER:** Mr. Mayer welcomed Dr. Gregerson representing the Board of Psychology.

**PUBLIC COMMENT:** No public comment was presented.

**APPROVAL OF MINUTES:** On properly seconded motion by Mr. Boehm, the Board voted unanimously to adopt the minutes of the July 14, 2005 meeting.

**DEPARTMENT**

**DIRECTOR'S REPORT:**

**Hurricane Katrina Assistance**

Ms. Jaspen informed the Board that the Governor was drafting an Executive Order to assist the licensure of healthcare professionals from the states affected by Hurricane Katrina. Specifically, the Order proposes to relax some of the requirements of licensure documentation for temporary licenses and delay fees.

Additionally, Ms. Jaspen reported that the Governor had issued an Executive Order effective September 1, 2005 allowing pharmacy dispensing assistance to individuals displaced by the effects of Hurricane Katrina.

**EXECUTIVE DIRECTOR'S REPORT:**

Dr. Carter presented an update to the 2005 workplan. She reported that the 2006 workplan will be presented at the January 2006 meeting and requested that the members submit potential issues or recommendations for inclusion.

Dr. Carter informed the Board that the agency performance statistical reports will be revamped to better allow for trend analyses, standards performance review, specific location of backlogs, and an overall picture of agency performance.

**REVIEW OF LEGISLATION AND REGULATORY PROPOSALS:**

Ms. Yeatts updated the Board on the 2005 legislation, regulatory actions and legislative proposals. The documents are incorporated into the minutes as Attachment 1.

**BOARD REPORTS:**

The following Boards presented their written board reports and they are incorporated into the minutes as Attachment 2:

Audiology and Speech-Language Pathology, Counseling, Nursing, Physical Therapy, Psychology and Social Work.

The following board's representatives were not present; however, written reports were submitted and they are incorporated into the minutes at Attachment 3:

Funeral Directors and Embalmers, Medicine and Pharmacy.

Dentistry - Dr. Seigel reported that the Board continued to follow the establishment of a national examination and proposed expanded duties of dental assistants. He further reported that the

Sanction Reference Study process was almost complete, a possibility of a licensure fee increase and adoption of emergency regulations.

Long Term Care – Ms. Smith reported that the new Board had held its first meeting as Long Term Care Administrators. She noted that a task force had been established to develop regulations for licensure of assisted living administrators and preceptors. Ms. Smith stated that the Board will be holding additional meetings to promulgate regulations.

Optometry – Dr. Hettler reported that a new citizen board member, Jacqueline Thomas, had been appointed. He further updated the Board on issues of CE non-compliance, professional designation regulations and a possible decrease in licensure fees.

#### **COMMITTEE REPORTS:**

##### **Regulatory Research**

Report on dialysis patient care, the naturopathy sunrise review and telehealth were presented by Dr. Ridenhour.

**Dialysis Patient Care** - Dr. Ridenhour reported on the Dialysis Patient Care Legislative Update. The legislative proposal approved at the last meeting provided for a one-year training period prior to certification. Subsequently, constituents requested an extension to two-years. The legislative proposal has been amended to provide for a training period up to two years. After which time, the technician must become certified to continue performing duties reserved to dialysis patient care technicians.

**Naturopathy Sunrise Review** – On properly seconded motion by Dr. Ridenhour, the Board voted unanimously to accept the report of the Committee with the recommendation to not license naturopaths.

**Telehealth** – Dr. Ridenhour reported that the issue of Telehealth was a huge issue for the Board of Pharmacy because of Internet dispensing but appeared to be of varying consequence for other professions. The Nursing Compact had been developed to address some concerns of nursing practice across state lines, but other professions had not adopted this model for their practitioners. To obtain a better understanding of the impact of telehealth on the varying professions, on properly seconded motion by Dr. Ridenhour, the Board voted to request each board to review the effects and implications of electronic practice and submit their reports to BHP by August 2006.

### **Education Committee**

Ms. Smith apprised the Board that the Informal Conference brochure had been requested to be revised to include a glossary and other minor format changes. Ms. Smith also reported that the Issues Forum had been rescheduled for January in conjunction with the next full board meeting date.

### **Executive Committee**

Mr. Mayor presented the Committee's recommendations concerning the Agency's budget. On properly seconded motion by Ms. Trigiani, the Board voted unanimously to accept the Committee's report.

### **Enforcement Committee**

Dr. Seigel reported that the Committee had received an update by board on the Sanction Reference Study and that Ms. Lemon and Ms. Stanbach had presented a review of agency case standards and statistics. Dr. Seigel encouraged each Board to set up a time to meet with Ms. Lemon to receive and exchange information. He also recommended that new board members receive training in actual sample case review and rendering opinions as part of new board member training.

### **Nominating Committee**

Ms. Trigiani reported that the Committee did not develop a slate of recommended candidates due to multiple board member interest. On properly seconded motion by Ms. Cooper, the following nominees were presented from the Committee:

Chair - Alan Mayer and Michael Ridenhour, Au.D.

Vice-Chair – David Hettler, O.D. and Harold Seigel, D.D.S.

Additionally, nominations from the floor were accepted and on properly seconded motion by Mr. Mayer, Dr. Ridenhour was added to the Vice-Chair list of nominees.

The Honorable Alan Mayer was re-elected as Chair with a seven member majority vote. Dr. Ridenhour received a nine-member majority and was re-elected as Vice-Chair.

### **NEW BUSINESS:**

No new business was presented.

**ADJOURNMENT:**

The meeting adjourned at 2:05 p.m.

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Alan E. Mayer  
Chair

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Elizabeth A. Carter, Ph.D.  
Executive Director for the Board

TALKING POINTS  
For BHP meeting of September 8, 2005  
**BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY**

- The Board of Audiology and Speech-Language Pathology submitted its 2006 legislative proposal to the Department. The proposal establishes a provisional license in audiology. Due the changing degree requirements in the field of audiology, there is a need for a clinical internship after completing the Master's degree requirements.
- The Board of Audiology and Speech-Language Pathology is conducting its periodic review of its regulations.

## **Board of Counseling**

On approximately September 26th CE audits will be mailed to 25 of the licensees with a return deadline of October 26th. This is the first audit for the Board of Counseling. The regulations for new “Standards of Practice” are in the final stages.

**Board of Nursing Report**  
Board of Health Professions  
September 2005

Regulation of Medication Aides

Pursuant to legislation passed July 2005, the Board of Nursing is required to register medication aides who administer drugs that would otherwise be self administered to residents in an assisted living facility licensed by the Department of Social Service.

The Medication Aide Task Force has met twice for the purpose of developing regulations for the registration of medication aides. A progress report is due to the Joint Commission on Health Care, the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services on or before December 1, 2005. Final regulations are to be effective on or before July 1, 2007. These regulations will not be enforced until July 2008.

Delegation to an Agency Subordinate Process

The Board of Nursing has been scheduling informal conferences in select cases before an agency subordinate since December 2004. This process has proved to be effective and is allowing the Board to schedule more cases and at the same time not increasing the number of days that Board members have to be present at the department. To date 30 nursing cases and 21 nurse aide cases have been heard by an agency subordinate. All but three of the recommendations made by the agency subordinate that have been presented to the Board have been ratified by the Board.

Regulations

The Board of Nursing is in the process of conducting a periodic review of the Regulations Governing the Practice of Nursing and the Regulations Governing the Practice of Nurse Aides.



TALKING POINTS  
For BHP meeting of September 8, 2005  
**BOARD OF PHYSICAL THERAPY**

- The Board of Physical Therapy adopted amended regulations allowing the acceptance of other foreign credentialing firms for licensure. Currently the Board of Physical Therapy only accepts foreign credentialing evaluations by the Foreign Commission on Credentialing of Physical Therapy.
- The Board of Physical Therapy plans to add a most frequently asked questions section to its website.
- The Board of Physical Therapy voted to reduce fee effective immediately. Also, with the fee reduction, the Board of Physical Therapy will change its renewal dates from birthday months to December 31<sup>st</sup> of each even year.

Report for BHP  
**Board of Psychology**

Audits for CE have gone out to approximately 80 licensees with a return date of September 30th. This is the first CE audit for the Board of Psychology.

The next meeting is scheduled for October 11th. An issue of concern which the Board will address over the next few months is the use of “technical assistance” and the work which can be delegated to a non licensed individual related to testing.

## **Board of Social Work**

Meeting scheduled for September 16th. The Board has audited 173 licensees for the 2003-2005 renewal cycle.

The Board has begun the regulatory process to consider amending the regulations to allow bachelors to sit for the Licensed Social Work exam upon graduation and prior to the required two years of supervised experience.

TALKING POINTS  
For BHP meeting of September 8, 2005  
**FUNERAL DIRECTORS AND EMBALMERS**

- The Board of Funeral Directors and Embalmers submitted its legislative proposal for the 2006 Virginia General Assembly: exception of EMS licensed agencies from registration as surface transportation and removal firms, and changing the occupation of resident trainee to funeral service intern.
- The Board of Funeral Directors and Embalmers continues its periodic review of its three regulations: general, resident trainee and preneed funeral planning.
- The Board of Funeral Directors and Embalmers is studying the pre-need funding laws of other states in an effort to amend its current pre-need laws.

**REPORT OF THE BOARD OF MEDICINE**  
**TO THE**  
**BOARD OF HEALTH PROFESSIONS**  
September 8, 2005

1. The Board of Medicine now regulates certified professional midwives. The Advisory Board on Midwifery was created in law during the 2005 Session of the General Assembly and constituted by gubernatorial appointment in July. The Advisory's first task has been to develop draft emergency regulations and recommend them to the Board of Medicine. In two meetings, this has been accomplished. The Board of Medicine will review, revise and adopt the recommended emergency regulations at its September 16, 2005 meeting.
2. The Board of Medicine sought to amend its office-based anesthesia regulations on a fast-track basis, believing the minor change to the regulations to allow non-anesthesiologists to perform major conductive blocks in their offices would be non-controversial. Due to the language selected for the revision, there was considerable discussion both in the anesthesiology community and the certified registered nurse anesthetist community. Enough commentary was received that the fast-track process was converted into a NOIRA. New language has been crafted, and it has been reviewed by the Board's Legislative Committee. The full Board will review this proposed amendment and adopt it as proposed regulation at its September 16, 2005 meeting.
3. The State Health Commissioner, Robert Stroube, MD, petitioned the Board of Medicine to require circulating registered nurses in doctors' offices where surgery is performed. The original comment period on this matter was extended to August 22, 2005 to allow as many interested parties as possible to comment. There are comments for and against this proposal. The Board of Medicine will review this comment and decide at its September 16, 2005 meeting to issue a NOIRA for this matter or not.
4. The Board of Pharmacy and the pharmacy community have been great support to the Board of Medicine as it has developed draft emergency regulations for compounding medications in physicians' offices. Medicine's Ad Hoc Committee on Compounding Regulations has included Scotti Russell and two renowned pharmacists from outside DHP. The committee's draft emergency regulations will be reviewed, revised and adopted by the Board at its September 16, 2005 meeting. The title of the regulations will reflect the activity regulated, i.e., Mixing, Diluting or Reconstituting Drugs for Administration, instead of using the word compounding.

**Board of Pharmacy  
Report to Board of Health Professions  
September 8, 2005**

**Regulations:**

Regulations allowing pharmacies to outsource certain prescription processing functions became effective yesterday, September 7. These will allow, for example, a hospital without a 24-hour pharmacy to have a Virginia licensed pharmacist in another hospital pharmacy review a new drug order for accuracy, interactions, contraindications, etc. prior to a nurse administering the drug to a patient. The Board had approved a number of pilot programs related to this type of activity which will no longer be necessary.

An ad hoc committee of the Board has met once and meets again September 19 to draft regulations establishing a pedigree systems for tracking certain prescription drugs susceptible to counterfeiting. It is anticipated that such a system will not be effective until 2007 at the earliest and possibly later based on the time it takes to promulgate regulations and providing time to implement. It will be 2010 or later before the industry has the technology infrastructure to be able to operate an electronic track and trace system for drugs in the distribution chain.

**Disciplinary:**

The Board currently has 301 open cases.

**Hurricane Katrina:**

The Board of Pharmacy received numerous calls last week from pharmacists and others requesting guidance on how they could legally provide medications to persons who had been displaced by Hurricane Katrina and had come to Virginia. In one call, a representative for the Air Force was planning to relocate military dependents to Virginia and wanted to know how their contract pharmacies could provide medications. The Director of DHP issued last Friday, September 2, an order authorizing pharmacists to assist in the provision of needed medications for these persons by relaxing requirements to refill a prescription. The Director suspended enforcement of the requirements for a properly transferred prescription when the pharmacist cannot contact the originating pharmacy in the affected state and is unable to contact the prescriber, but can reasonably verify necessary elements for refilling the prescription by a label on a vial or other documentation.