

**VIRGINIA BOARD OF HEALTH PROFESSIONS
DEPARTMENT OF HEALTH PROFESSIONS
FULL BOARD MEETING
JUNE 4, 2002**

TIME AND PLACE: The meeting was called to order at 1:10 p.m. on Tuesday, June 4, Department of Health Professions, 6606 W. Broad St., 5th Floor, Room 2, Richmond, VA.

PRESIDING OFFICER: Charles M. Bristow, Jr., F.S.L., Chair

MEMBERS PRESENT: Delores C. Darnell, R.N.
Joe Gieck, P.T.
Terone B. Green
Jerry Hinn, DVM
Jack Knapp
Charles A. Peachee, Jr., M.S.
Samuel C. Smart, O.D.
Jerry R. Willis, D.C.
William M. York, Jr.

MEMBERS NOT PRESENT: Sony Currin, Jr., R.P.H.
Elizabeth T. Marshall, M.A.
Krishan D. Mathur, Ph.D.
Janice S. Minshall
Isabelita Paler, R.N.
Gary Taylor, D.D.S.
Richard Teske
William Russell, L.C.S.W.

STAFF PRESENT: Robert A. Nebiker, Department Director
Mark D. Monson, Deputy Director for Administration
Elizabeth A. Carter, Ph.D., Executive Director
Howard Casway, Assistant Attorney General
Elaine Yeatts, Senior Regulatory Analyst
Sammy Johnson, Deputy Director, Enforcement
Carol Stamey, Administrative Assistant

OTHERS PRESENT: Neal Kauder, Visual Research

AGENDA: The meeting was called to order without a quorum and began the meeting by receiving the comments from Mr. Nebiker, Agency Director.

PUBLIC COMMENT: No public comment was presented.

COMMENTS OF DIRECTOR: Mr. Nebiker introduced the new Deputy Director for Administration, Mark Monson.

Mr. Nebiker informed the Board that based upon the JLARC study and its recommendations regarding the need for standards in case resolution and performance, the Department had developed agency Directive 4.6.

The Directive becomes effective May 8, 2002 and is incorporated into the minutes as Attachment 1. Further, Mr. Nebiker reported that a Case Standards Report had been developed to measure each Board's performance. An example is incorporated into the minutes as Attachment 2. Mr. Nebiker reported that in order to improve performance measures, each Board would be required to review its procedures and resources involved in the processing of cases. In addition, Mr. Nebiker reported that the Department would be reviewing cases that may be delayed based upon the lack of staff resources.

Mr. Nebiker reported that SB425 requires the Department to establish a prescription drug monitoring program. He stated that the measure applies only to Health Planning Region III, Southwest Virginia, and only to prescriptions for Schedule II drugs. The data will be drawn from dispensers' patient prescription databases, in a manner similar to that routinely provided to third-party payers.

Mr. Nebiker reported that the Board of Medicine is proposing legislation to allow all health regulatory boards to issue confidential Letters of Concern to their licensees. As occurs in some other states' health regulatory boards, the letters would address complaints that do not rise to the level of a violation, however, would voice the board concerns. Mr. Nebiker requested that the Board, through the Enforcement Committee, review the appropriateness of issuing Letters of Concern and its potential role, among other board interventions, in maintaining the health and safety of patients. He requested that the review be completed in time for legislative submission to the 2004 General Assembly.

On properly seconded motion by Dr. Willis, the Board voted unanimously that the Board, through the Enforcement Committee, evaluate the appropriateness and potential public safety merits of allowing regulatory boards to issue Letters of Concern.

Mr. Nebiker also reported that the Board of Medicine had considered proposing legislation to make the Department an independent authority. The pending recommendations of the Wilder Commission on the organization of state agencies may affect the proposal. He requested that each health regulatory board be informed concerning the proposal and that the issue would be placed on the agenda for future meetings of the Board of Health Professions.

Mr. Nebiker reported that the Department will be celebrating its 25th Anniversary on July 1, 2002 and has requested the Board of Health Professions to host an Issues Forum in November. The Education Committee will determine the topic and format.

**OVERVIEW OF BOARDS'
REGULATORY PROPOSALS:**

Ms. Yeatts overviewed the Regulatory Status Report and it is incorporated into the minutes as Attachment 3.

APPROVAL OF MINUTES:

On properly seconded motion by Dr. Willis, the Board voted unanimously to approve the minutes of the March 5, 2002 meeting.

COMMITTEE REPORTS:

Enforcement Committee

Ms. Darnell reported that a quorum of the Enforcement Committee was not established; however, it received an informative presentation by Neal Kauder which constituted the Interim Report on the Sanction Reference Study. To date, the Board of Medicine has served as the pilot board. The established timeline for one large board's work is up-to-date, all interviews have been completed, many of the factors to study have been identified, the board case sample size has been identified, the data collection instrument has been developed, and the data collection is about 15% complete.

Ms. Darnell also reported that the Committee had received a report from Dr. Harp, Executive Director for the Board of Medicine, which indicated that they are pleased and enthusiastic about the study and the work of the research team. She further noted that the Federation of State Medical Board's president had reviewed the study, and an article had been featured in their electronic newsletter.

Referring to the Updated Workplan (see Attachment 4), Ms. Darnell reported that the Committee had been presented with two options. Option 1: continue with the original 18 month timeline and complete the entire study on one large board (i.e., Board of Medicine) by mid-2003. Option 2: continue the work with the Board of Medicine and incorporate two other mid-sized boards by extending the timeline 2004. For the Board's review and consideration, Neal Kauder

presented a brief slide presentation, overviewed the Sanction Study Policy Blueprint and the original timelines and adjusted timeline (see Attachment 5).

On properly seconded motion by Dr. Willis, the Board voted unanimously to select Option 2 and request the participation of the Boards of Dentistry and Pharmacy.

Executive Committee

Ms. Darnell reported that the Executive Committee had received the bound audits and that the integrity of the agency's funds was intact. She stated that Mr. Nebiker had responded by letter to various audit recommendations, and noted that the timeline for audit issues was up-to-date (see Attachment 6). Ms. Darnell reported that the Agency will be upgrading its current computer system to address functionality issues requested by staff and it will include on-line renewals. The upgraded software is called License 2000. Further, Ms. Darnell reported that the Agency's current lease for space expires on October 31, 2002 and negotiations are under way for renewing the current space or relocating.

AGENCY WEBSITE:

Dr. Carter is preparing proposed drafts of a new section to be added to the web page titled "Patient's Corner". She requested that the Education Committee review and assist her in the development of the proposed drafts.

EXECUTIVE DIRECTOR'S REPORT:

Dr. Carter reported that the Department of Professional Occupational Regulations (DPOR), Boards of Barbers and Cosmetology, is conducting a study on the need for regulation of estheticians (see Attachment 7). Because the practice of esthetics is performed across professions, they have requested assistance and expertise from the Department. Dr. Carter is preparing a workplan for DPOR and will be assisting them with methodological questions. Dr. Harp will be providing insight from a medical perspective and will be presenting updates to BHP. DPOR is also considering a sunrise study on electrologists. Dr. Carter will be assisting DPOR with a workplan

Dr. Hinn brought to the Board's attention a recent article (Attachment 8) on use of cosmetic lasers by health professionals and others and the sometimes adverse results. The Board agreed to monitor all three issues.

To coincide with the timeline for the Sanction Reference Study, Dr. Carter requested that the next Board of Health Professions meeting be scheduled for September 17, 2002. The date was unanimously agreed upon.

BOARD REPORTS:

The written Board reports are incorporated into the minutes as follows:

Board of Counseling, Attachment 9;
Board of Medicine, Attachment 10;
Board of Pharmacy, Attachment 11;
Board of Nursing, Attachment 12;
Board of Physical Therapy, Attachment 13 and
Board of Funeral Directors & Embalmers,
Attachment 14.

Board of Psychology

Mr. Peachee informed the Board that Howard Casway, Assistant Attorney General, had been appointed to represent the Board. Dr. Peachee reported that the Board had established its procedures and forms relative to continuing education requirements. The regulations will become effective January 2003 and will include random audits. Further, Mr. Peachee reported that there had been fee increases.

Board of Veterinary Medicine

Dr. Hinn reported that the Board is minus three board members, one due to the recent passing of Dr. Eugene Musselman. There are 89 open cases, almost double what the Board had routinely had in recent past.

Board of Optometry

Dr. Smart informed the Board that to better communicate to the licensees, a mini newsletter has been developed and has been disseminated via e-mail. Further, Dr. Smart reported that the Board had completed a random audit. The combination of continuously informing licensees about the importance of CE, continuing audits and

strong disciplinary measures are expected to enhance compliance.

Board of Nursing Home Administrators

Ms. Darnell reported that the Board is concerned with decreased applicants sitting for the exams. A work group is convening June 5th to discuss possible barriers to entry into the profession. Ms. Darnell informed the Board that June 30, 2002 ends her second term serving on the Board and stated her appreciation to staff and the Board.

NEW BUSINESS:

No new business was presented.

ADJOURNMENT:

The meeting adjourned at 3:30 p.m.

Charles M. Bristow, Jr., F.S.L., Chair

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