

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

February 20, 2020

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Dr. Tuck called the meeting to order at 8:31 AM.
- ROLL CALL:** Ms. Opher called the roll; a quorum was established.
- MEMBERS PRESENT:** Ray Tuck, DC, President
Lori Conklin, MD, Vice-President
L. Blanton Marchese, Secretary-Treasurer
Syed Ali, MD
David Archer, MD
James Arnold, DPM
Manjit Dhillon, MD
Alvin Edwards, MDiv, PhD
David Giammittorio, MD
Jane Hickey, JD
Jacob Miller, DO
Kevin O'Connor, MD
Karen Ransone, MD
Brenda Stokes, MD
Svinder Toor, MD
Kenneth Walker, MD
Martha Wingfield
- MEMBERS ABSENT:** Joel Silverman, MD
- STAFF PRESENT:** William L. Harp, MD - Executive Director
Jennifer L. Deschenes, JD - Deputy Executive Director for Discipline
Colanthia M. Opher - Deputy Executive Director for Administration
Michael Sobowale – Deputy Executive Director for Licensure
Barbara Matusiak, MD - Medical Review Coordinator
David Brown, DC - DHP Agency Director
Elaine Yeatts - DHP Senior Policy Analyst
Erin Barrett, JD - Assistant Attorney General
- OTHERS PRESENT:** Tom Intorcio-Virginia Catholic Conference
Robert Glasgow – Virginia Academy of Physician Assistants

EMERGENCY EGRESS

Dr. Conklin provided the emergency egress procedures for Conference Room 2.

APPROVAL OF THE OCTOBER 17, 2019 MINUTES

Dr. Edwards moved to approve the October 17, 2019 minutes as presented; the motion was properly seconded and carried unanimously.

ADOPTION OF THE AGENDA

Dr. Edwards moved to accept the agenda as presented; the motion was properly seconded and carried unanimously.

UPDATE FROM THE NATIONAL COMMISSION ON THE CERTIFICATION OF PHYSICIAN ASSISTANTS

This presentation was postponed and will be rescheduled for later in the year.

PUBLIC COMMENT

There was no public comment.

DHP DIRECTOR'S REPORT- David Brown, DC

Dr. Brown provided the Board with an update on the 2020 Session of the General Assembly, highlighting legislation that will affect Medicine.

REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT

Dr. Tuck reported on his attendance at a meeting hosted by the Center for Personalized Education for Physicians (CPEP) in Denver.

Dr. Walker reported on his presentation to students at Liberty University.

VICE-PRESIDENT'S REPORT

Dr. Conklin had no report.

SECRETARY-TREASURER'S REPORT

Mr. Marchese had no report.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp provided an update on:

- 1- the Board's cash balance, revenues and expenditures for FY2021,
- 2- FSMB Advocacy Network News that covered topics including telemedicine, opioids, the Interstate Medical Compact, and the Universal Recognition of Occupational Licenses Act,
- 3- Board Member terms – 8 Board member terms will expire June 30, 2020,
- 4- the Greenwall Foundation State Medical Board Survey,
- 5- FSMB's 108th Annual Meeting - staff will seek authorization for those members interested in attending.

COMMITTEE and ADVISORY BOARD REPORTS

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

OTHER REPORTS

Board Counsel

Erin Barrett, AAG provided an update on the following cases:

- Clowdis v. Board of Medicine et al.
- Merchia v. Board of Medicine
- Merchia v. Board of Medicine et al.
- Moustafa v. Board of Medicine
- Hill v. Board of Medicine
- Garada v. Board of Medicine
- Zackrison v. Ali et al

Board of Health Professions

- **Licensure of Certified Anesthesiologist Assistants (CAA's)**

Dr. O'Connor spoke of the Board of Health Professions (BHP) 2018 denial to recommend the licensure of CAA's despite over 100 letters of support from the anesthesiology community. He noted that CAA's have master's level training and are already licensed in 17 states, all federal facilities, the military, and the VA system. He provided the reasons given for the denial; however, he believes they were flawed.

MOTION: After his overview and the Board's discussion, Dr. Edwards moved that licensure for CAAs be revisited by BHP. The motion was seconded and carried unanimously.

- **Stem Cell Therapy**

Dr. O'Connor then spoke to the therapeutic use of stem cells and recommended the Board develop a guidance

document addressing this practice. He said that FSMB already has a policy in place that could serve as a foundation for a Board guidance document. An Ad Hoc Committee should be established with experts in the field, including a representative from the Department of Health. Dr. Brown stated that if the conclusion of the Ad Hoc is that these procedures are the practice of medicine, legislation can follow. Although no vote was taken, the Board members were in agreement with Dr. O'Connor's recommendation.

Podiatry Report

Dr. Arnold had no report.

Chiropractic Report

Dr. Tuck provided a brief report on activities in the chiropractic community.

Committee of the Joint Boards of Nursing and Medicine

Mr. Marchese provided a brief summary of the most recent meeting. To date, over 700 nurse practitioners have been granted autonomous practice; no application has been denied.

Dr. Tuck called for a break at 10:07 a.m. The meeting reconvened at 10:23 a.m.

New Business:

1) Regulatory and Legislative Issues

- **Chart of Regulatory Actions**

Ms. Yeatts provided an update on the status of regulatory actions as of February 10, 2020. This report was for informational purposes only and did not require action.

- **Report from the 2020 General Assembly**

Ms. Yeatts reviewed the proposed legislation in the 2020 Session of the General Assembly. She reviewed the bills that will directly affect the Board of Medicine and fielded questions from Board members.

- **Petition for Rulemaking – Lee Tannenbaum, MD**

Ms. Yeatts reviewed the petition submitted by Lee Tannenbaum MD, Senior Medical Director for ARS addiction treatment facilities, who asked the Board to consider an amendment to **18VAC85-21-150(I) Treatment with Buprenorphine for Addiction**, raising the maximum dose of buprenorphine to 32 mg per day. Ms. Yeatts reviewed the recommendation of the Legislative Committee.

MOTION: Dr. O'Connor moved that the Board accept the recommendation of the Legislative Committee that no regulatory action be taken. The motion was seconded and carried unanimously.

---FINAL APPROVED---

- **Petition for Rulemaking – Virginia Academy of Physician Assistants**

Ms. Yeatts reviewed the petition for rule-making from the Virginia Academy of Physician Assistants which requested an amendment to **18VAC85-50-16 Disclosure**, that the requirement that the patient care team physician's name be on Schedule II-V prescriptions be removed. Ms. Yeatts also referred to the Legislative Committee's recommendation to take no regulatory action.

MOTION: After a brief discussion, Dr. O'Connor moved to accept the recommendation of the Legislative Committee to take no regulatory action. The motion was properly seconded and carried unanimously.

- **Adoption of Amendment to Regulations for Respiratory Therapy**

Ms. Yeatts reviewed the minutes from the May 21, 2019 meeting of the Advisory Board on Respiratory Therapy and the proposed amendment to **18VAC85-40-66 Continuing education requirements**. The Advisory asks that the Board consider passage of a specialty examination to count for 20 hours of continuing education for the biennium in which the exam was passed. Ms. Yeatts advised that adoption of the amendment would be a fast-track action.

MOTION: After a brief discussion, Dr. O'Connor moved to adopt the amended regulation as a fast-track action. The motion was properly seconded and carried unanimously.

- **Regulatory Action – Adoption of Final Regulations for Autonomous Practice for Nurse Practitioners**

Ms. Yeatts advised that the emergency regulations became effective January 7, 2019 and remain in effect for 18 months. The emergency regulations must be replaced with permanent regulations by June 6, 2020. She noted that the final regulations are identical to the proposed and emergency regulations.

MOTION: Dr. Walker moved to adopt the final regulations as presented. The motion was properly seconded and carried unanimously.

- **Adoption of Proposed Regulation for Waiver of Electronic Prescribing by Nurse Practitioners**

Ms. Yeatts referred to the 2019 Legislation, Emergency NOIRA and Amendments to **18VAC90-40, Regulations Governing Prescriptive Authority for Nurse Practitioners**. Ms. Yeatts stated that the proposed amendments are identical to the emergency regulations that became effective on December 23, 2019.

MOTION: After a brief discussion, Dr. Edwards moved to adopt the proposed regulations for nurse practitioners to replace the emergency regulations for a temporary waiver for the e-prescribing of opioids. The motion was properly seconded and carried unanimously.

- **Recommendation on Conversion Therapy**

Ms. Yeatts referred to the guidance document adopted by the Board on October 17, 2019, the comments posted on Regulatory Townhall during the comment period, and the Legislative Committee's reaffirmation of the document as published.

MOTION: After some discussion, Dr. Ransone moved to accept the recommendation of the Legislative Committee and reaffirm the guidance document as published. The motion was properly seconded and passed unanimously.

2. Waiver for Electronic Prescribing

Dr. Harp said that beginning July 1, 2020, all prescriptions for medications that contain an opioid must be transmitted electronically to the dispensing pharmacy. He reminded the Board members of the December Executive Committee's request that Board staff notify the affected licensees 3 times prior to the July 1 implementation date. Dr. Harp said the first notification appeared in the December 2019 Board Briefs and that there would be 2 more to help prescribers comply by July 1. The Board discussed the proposed waiver request form, which generated 2 amendments.

MOTION: Dr. Ransone moved to accept the revised form as amended for inclusion in the next Board Briefs. The motion was properly seconded and carried unanimously.

3. Licensing Report - Michael Sobowale

Michael Sobowale provided a brief statistical analysis of licensing, stating that there has been steady growth in the total number of applicants year-to-year. This year's total will equal or exceed the number of licenses issued last year.

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

4. Licensure by Endorsement Report – Dr. Harp

Dr. Harp noted that 85 licenses have been issued through the endorsement pathway since January 1, 2020. He also noted that FSMB is still interested in having the Board join the Interstate Medical Licensure Compact as some of our contiguous states have done.

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

5. Discipline Report – Jennifer Deschenes

Ms. Deschenes provided a quick overview of cases currently open by stage as of February 7, 2020. She then introduced Sean Murphy, AAG, who presented a possible summary suspension on a physician.

Dr. Edwards moved to summarily suspend. The motion was seconded and carried unanimously.

6. Appointment of Nominating Committee

Dr. Tuck appointed Dr. O'Connor, Dr. Walker and Dr. Giammittorio to serve on the Nominating Committee to develop a slate of officers for 2020-2021.

7. Adjournment

With no other business to discuss, the meeting adjourned at approximately 11:35 a.m.

Ray Tuck, Jr., DC
President, Chair

William L. Harp, MD
Executive Director

Colanithia Morton Opher
Recording Secretary