

**VIRGINIA BOARD OF MEDICINE
LEGISLATIVE COMMITTEE MINUTES**

Friday, January 13, 2016 Department of Health Professions Richmond, VA

- CALL TO ORDER:** The meeting convened at 8:36 a.m.
- ROLL CALL:** Ms. Taylor called roll; a quorum was not established.
- MEMBERS PRESENT:** Barbara Allison-Bryan, MD, Vice-President, Chair
Syed Salman Ali, MD
David Giammittorio, MD
- MEMBERS ABSENT:** Lori Conklin, MD
The Honorable Jasmine Gore
Maxine Lee, MD
Ray Tuck, DC
- STAFF PRESENT:** William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Director, Discipline
Alan Heaberlin, Deputy Director, Licensure
Barbara Matusiak, MD, Medical Review Coordinator
Colanthia Morton Opher, Operations Manager
Lynn Taylor, Discipline Administrative Assistant
Lisa Hahn, MPA, DHP Deputy Director
Elaine Yeatts, DHP Senior Policy Analyst
Erin Barrett, JD, Assistant Attorney General
- OTHERS PRESENT:** Jerry Canaan, HDJN
Sara Heisler, VHHA

EMERGENCY EGRESS INSTRUCTIONS

Dr. Allison-Bryan provided the emergency egress instructions.

APPROVAL OF MINUTES OF MAY 15, 2015

After roll call, it was determined that a quorum could not be established; therefore, the minutes of May 15, 2015 were not able to be approved.

ADOPTION OF AGENDA

With the absence of a quorum, the agenda could not be officially adopted. However, the

members present agreed that they could have a general discussion about the items on the agenda.

PUBLIC COMMENT

There was no public comment.

NEW BUSINESS

Status of Regulatory Actions

After review of the Chart of Regulatory Actions, Ms. Yeatts provided an outline of the 2016 legislation that may impact the Board. Those reviewed were:

HB 221 Active duty health care providers at public or private health care facilities; services and duties.

HB 239 Physicians; division of fees.

HB 255 Health insurance; coverage for mental health and substance abuse disorders

HB 278 Prescription of opioids and benzodiazepines; urine drug screening

HB 290 Prescription Monitoring Program; indicators of misuse, disclosure of information

HB 293 Prescription Monitoring Program; requirements of prescribers of benzodiazepine or opiates

HB 319 Volunteer health care providers; agreements with Department of Health

HB 330 Clinical nurse specialists; Board of Nursing may register applicant

HB 427 Conversion therapy; prohibited, no state funds shall be expended for purpose of therapy

HB 492 Pregnant woman; coercion related to birth of child prohibited

HB 498 TPA-certified optometrists; prescription of certain Schedule II controlled substances

HB 549 Birth control; definition

HB 556 Abuse and neglect of children; a child includes a viable fetus

--- DRAFT UNAPPROVED ---

HB 574 Dietitians and nutritionists; clarifies the situations under which they may practice

HB 580 Nurses; adds definition of "advanced practice registered nurse," etc.

HB 581 Nurse practitioners; practicing outside of a patient care team

HB 586 Health Regulatory boards; confidentiality of certain information obtained by boards

HB 612 Diminished financial capacity; execution of revocable letter

HB 652 Declaration of neurological death

HB 656 Syringes services program; public health emergency

HB 657 Prescription Monitoring Program; indicators of misuse, disclosure of information

HB 738 Registered surgical technologists; registered surgical assistants

HB 825 Military medical personnel; pilot program

HB 829 Prescribers of covered substances; continuing education

SB 201 Division of fees among physicians

SB 207 Administrative Process Act; reconsideration of formal hearings

SB 212 Health regulatory boards; membership and terms

SB 264 Nurse practitioners; practicing outside of a patient care team

SB 265 Nurse Licensure Compact; current compact replaced with a revised version

SB 287 Prescription Monitoring Program

SB 343 Possession or distribution for medical purposes; cancer

SB 369 Nurse practitioners; practicing outside of a patient care team

HB 825 Military medical personnel; pilot program for personnel to practice medicine

HB 900 Associate physicians; licensure and practice

HB 909 Nurse practitioners; practicing outside of a patient care team

HB 957 Laser hair removal technicians; licensure by Board of Medicine

HB 962 Lyme disease; testing disclosure

After Ms. Yeatts presentation, the members engaged in a brief discussion of the following bills:

HB 492 - Pregnant woman; coercion related to birth of child prohibited.

Summary as introduced:

Coercion of pregnant woman prohibited. Provides that no practitioner of the healing arts shall make any attempt or take any action intended to coerce a pregnant woman regarding options related to the birth of her child, including consenting to surgical interventions related to the birth of her child.

During the discussion, Dr. Giammittorio stated some of his concerns including the implication of child abuse of the unborn fetus. He said that it needs to be remembered that there are two patients involved during a delivery. And in a life or death situation with a 10-minute window, how is the physician supposed to respond in light of this bill? In addition to the pressure of the delivery, there will be the added concern about possibly being charged with a criminal offense.

HB 586 – Health Regulatory Boards; confidentiality of certain information obtained by boards.

Summary as introduced:

Confidentiality of certain information obtained by health regulatory boards in disciplinary proceedings. Provides that in cases involving allegations that a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the health regulatory board may deem information related to (i) health services received by the practitioner as defined in §32.1-127.1:03, (ii) information derived from the health records, as defined in § 32.1-127.1:03, or (iii) any finding of fact that may indicate the practitioner's physical or mental illness confidential and include such information in a confidential exhibit to a notice or order that shall not be disclosed to the public.

During the discussion, Ms. Deschenes explained that the Board's current process allows the entire statement of particulars to be released including sensitive information about the practitioner's impairment. The proposed bill would allow the Board to redact the personal details. However, the Board would be able to provide un-redacted information to other state boards for licensing purposes.

HB 900 Associate physicians; licensure and practice

Summary as introduced:

Licensure and practice of associate physicians. Authorizes the Board of Medicine to issue a two-year license to practice as an associate physician to an applicant who is 18 years of age or older, is of good moral character, has successfully completed a course of study approved by the Board, has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination, and has not completed a medical internship or residency program. The bill requires all associate physicians to practice in accordance with a practice agreement entered into between the associate physician and a physician licensed by the Board and provides for prescriptive authority of associate physicians in accordance with regulations of the Board.

During the discussion, Dr. Ali, with all due respect, questioned the logic of providing licensure to individuals who have not been able to complete a residency program – even if under the supervision of a licensed physician. Ms. Yeatts advised that Missouri was the first state to pass this profession; and the assistant physician profession is not recognized by the DEA.

Dr. Harp stated that the requirements should include graduation from medical school and passage of Steps I & II of the USMLE or COMLEX.

Review and Discussion of the Interstate Medical Licensure Compact Laws and Fiscal Analyses from Other States

Dr Harp provided a historical timeline describing the progress and implementation of the licensure compact project.

At the Committee's May 2015 meeting, Board staff was asked to gather some of the laws passed in other states and to ask Board Counsel for an analysis of the potential impact of the compact on the Board's laws, regulations, guidance and policies. The state compact laws provided to the Committee were those of West Virginia, Alabama and Utah. Fiscal analyses from Idaho, Maryland, Montana, Texas, Utah and Wyoming were also provided. Maryland and Texas have not yet passed the compact law.

Dr. Harp gave an overview of his observations of the Compact noting three differences from our current processes.

- 1 – the Commission will collect fees and distribute to the states
- 2 – criminal background checks will be required
- 3 – establishes a definition of "physician" for the purposes of expedited licensure

Ms. Barrett stated that there are legal and enactment issues with the Compact as it currently exists, and she will be meeting with Board staff to develop potential draft legislation to address several issues such as, but not limited to, an expedited application process, the requirement that all complaints be reported, the release of investigative reports to the Commission, fees shifting outside of Virginia, the rulemaking function, etc.

Ms. Barrett noted the items identified as issues could be made compatible but may not make it to the General Assembly until 2018.

It was also noted that rulemaking authority relates to the Compact and not to the profession, and that this was not a new concept as DHP already belongs to other compacts that have rulemaking authority.

Dr. Harp provided brief fiscal analyses of the states noting that most of the states reported minimal cost incurred with joining the Compact. Montana reported dues to the Commission would run around \$10,000 a year, while Texas, whose legislature did not pass the Compact, reported it would require 3 additional staff members to handle the new process in addition to \$30,000 to \$50,000 in set-up costs.

Dr. Harp advised that we would need to get concrete numbers for annual dues, criminal background checks, and whether the new process would require additional personnel before moving forward.

Dr. Allison-Bryan agreed that it would be prudent to conduct additional research on all the issues raised, and asked that the estimated financial impact along with proposed regulations be prepared for the agenda on May 20, 2016. Dr. Allison-Bryan also asked that a draft copy of the findings be provided to the members as far in advance as possible.

ANNOUNCEMENTS

There were no additional announcements.

Next meeting – May 20, 2016

Adjournment - With no other business to conduct, the meeting adjourned at 10:03 a.m.

Barbara Allison-Bryan, MD
Vice-President, Chair

William L. Harp, MD
Executive Director

Colanthia M. Opher
Recording Secretary