

**VIRGINIA BOARD OF MEDICINE  
EXECUTIVE COMMITTEE MINUTES**

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Friday, August 7, 2009

Commonwealth of Virginia  
Conference Center  
Board Room 3

Richmond, VA

**CALL TO ORDER:** The meeting convened at 8:46 a.m.

**MEMBERS PRESENT:** Jane Piness, MD, President  
Valerie Hoffman, DC, Secretary-Treasurer  
Gen. Clara Adams-Ender, RN, MSN, USA Ret.  
Sandra Bell, MD  
Malcolm Cothran, MD  
Karen Ransone, MD, Vice-President

**MEMBERS ABSENT:** Stephen Heretick, JD  
Wayne Reynolds, DO

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Jennifer Deschenes, Deputy Executive Director - Discipline  
Barbara Matusiak, MD, Medical Review Coordinator  
Ola Powers, Deputy Executive Director - Licensure  
Sandra Whitley Ryals, Director, DHP  
Emily Wingfield, Deputy Director, DHP  
Amy Marschean, Assistant Attorney General  
Elaine Yeatts, DHP Senior Policy Analyst  
Colanthia Morton Opher, Operations Manager

**OTHERS PRESENT:** Scott Johnson, HDJN  
Michael Jurgensen, MSV  
Tyler Cox, HDJN

## **ROLL CALL**

### **Emergency Egress Procedures**

Dr. Ransone gave the verbal emergency egress instructions.

### **Adoption of Agenda**

Dr. Ransone moved to adopt the agenda with a correction to the date at the top of the page. The motion was seconded and carried unanimously.

## **Public Comment on Agenda Items**

There was no public comment on agenda items.

## **Approval of the April 4, 2008**

Dr. Bell moved to accept the minutes of April 4, 2008. The motion was seconded and carried unanimously.

## **NEW BUSINESS**

### **Review of Draft Legislation for Chapter 29**

Ms. Yeatts informed the Committee that the Executive Branch had indicated that legislation that involved minor housekeeping changes to the Code of Virginia would be considered for the 2010 Session. Ms. Yeatts advised that Ms. Ola Powers, Deputy Director for Licensing, has been diligently maintaining a list of items that needed to be amended or repealed. The proposed minor changes are being recommended to update the chapter so that it is consistent in all ways.

Dr. Harp acknowledged correspondence received from Howard Lazar, DPM, JD, Executive Director and Chief Counsel for the American Board of Lower Extremity Surgery. In his letter, Dr. Lazar voiced concern over the current language of §54.1-2910.1(A)(3) that requires podiatric licensees to provide for their profile any specialty board certifications approved by the American Boards of Multiple Specialties in Podiatry and the Council on Podiatric Medical Education of the American Podiatric Medical Association. Dr. Lazar stated in his letter that in order for this section of the Code to fulfill its purpose of providing the citizens of the Commonwealth with reliable information on the board certification of licensees, certification by the American Board of Lower Extremity Surgery (ABLES) should be included. The Committee briefly discussed Dr. Lazar's recommendation but decided to decline to include his requested change. Dr. Harp advised that he had also received a request from the podiatry community to change the title of the profession from podiatry to podiatric medicine. Neither issue was seen as "minor housekeeping", which is the limited focus of this particular review of Chapter 29.

Dr. Hoffman moved to accept the proposed Draft Legislation for Chapter 29 as presented. The motion was unanimously accepted by the Committee. Dr. Harp will relay the Committee's action to Dr. Lazar and Dr. Mest.

### **Recommendation for Continuing Education from the Virginia State Child Fatality Review Team**

Dr. Harp brought to the Committee's attention the letter from Dr. Leah Bush, Chief Medical Examiner and Chair of the Review Team, as well as the Team's report on Child Deaths from Heat-Related Motor Vehicle Entrapment. The Team's recommendation for continuing education was reviewed and discussed. Presented in the report as Recommendation 4, it reads as follows: "The Virginia State Board of Medicine should require as a condition of licensure that all physicians, nurse practitioners and physician assistants receive at least eight hours of CME training in

identifying and reporting child abuse and neglect-related injuries and fatalities. This training should be readily accessible to providers through internet-based courses which provide CME credit.”

Dr. Cothran moved to decline to adopt the recommendation of the Team. His motion was seconded. Discussion by the Committee noted that the Virginia Board of Medicine takes very seriously its mission to protect the public, especially vulnerable populations, but it did not believe that Recommendation 4 would provide the preventative impact sought to avert these tragic occurrences. The motion was carried unanimously. Dr. Harp will respond to the Team on Dr. Piness’ behalf.

### **DHP Director’s Report**

- Prescription Monitoring Program

Ms. Ryals, DHP Director, informed the Committee that the criminal investigation regarding unauthorized access is still being actively pursued. She advised that there were several very complex issues being dealt with simultaneously, including enhancements to the program’s software that will facilitate real-time reports on an around-the-clock basis.

- Health Practitioners’ Monitoring Program

Ms. Ryals noted the change in the name of the program effective July 1, 2009. All current participants of HPMP were mailed letters advising them of the changes in the program. Ms. Ryals acknowledged the progression to having only active licensees enrolled and monitored in the program, with a few exceptions. Ms. Ryals stated that there are currently 153 participants identified for the Board of Medicine. Ms. Ryals thanked Dr. Harp for his participation and valuable input on both the internal program committee as well as the Joint Transitional Committee with VCU. She acknowledged other Board of Medicine staff and their assistance to Ms. Peggy Wood, HPMP Liaison, in the process of determining current participants’ eligibility for the program under the new laws and regulations.

Ms. Wingfield asked that the Board rely on standard terms when drafting orders and not be too creative when requiring a licensee to enter the Program. She stated that the more simplistic the order, the better.

- Per Diem for Board Members

Ms. Ryals announced that language in the appropriations act was recently discovered that affected the payment of per diem to citizen members. She explained that the term “citizen members” in the bill applied to all appointed board members, and effective July 1, 2009 per diem would no longer be paid. Ms. Ryals explained that this information was just shared with DHP, and although she does not know the history behind it, the law applies to general and non-general funded agencies. Ms. Ryals advised that a notice informing the board members will be prepared by her office for dissemination.

Several of the Committee members voiced their disappointment with the decision and also the delayed notification. They all agreed that they were not serving for the money but stated that the per diem was at least an acknowledgement of their professionalism, and the time they've taken away from their practice to conduct Board business. Ms. Ryals addressed questions about the Agency's position on this issue. She advised that she does not foresee the Agency taking any action to challenge the law, but if the economy improves, the issue may be revisited at the end of FY2010.

- Performance measures

Ms. Ryals provided a snapshot of the Agency's and the Board's current performance measures and advised that an updated report will be provided in October.

#### Consideration of an Ad Hoc Committee to Study the Need for Office-Based Surgery Regulations

Dr. Harp relayed to the Committee the concerns expressed by the plastic surgery community regarding whom and in what setting outpatient surgical procedures can be done competently and safely. He referred to the North Carolina Position Statement on Office-Based Procedures and the Board of Health Professions Report on Surgical Assistants/Surgical Technologists. Dr. Harp advised that this issue was brought before the Board in 2006, and at that time, the Board did not decide to promulgate regulations.

Dr. Cothran moved to establish an ad hoc committee to review this issue with a surgeon from the Board as chair. The motion was seconded and carried unanimously.

#### Request for Legislation to Protect Doctors that Treat Lyme Disease

Dr. Harp drew the Board's attention to the letter from Maj. Ralph Brubaker, Jr. to Del. Orrock and Sen. Houck asking for legislation, similar to that in Connecticut, that would protect doctors that treat Lyme Disease. The Board had for its review the Connecticut Joint Favorable Report, the Connecticut legislation, the one Virginia Board of Medicine Notice and dismissal of charges letter involving Lyme Disease in the last decade, and perhaps ever, and the Virginia Department of Health statistics on reported cases of Lyme Disease 1998-2007.

After some discussion, Dr. Cothran called for the question. The Committee unanimously agreed to decline the request to develop legislation. The Committee understood the concern expressed in Maj. Brubaker's letter, but it did not see any trends in the Board's disciplinary processes or the reportable disease statistics to support the need for legislation at this time. The Committee asked Dr. Harp to relay the decision to Major Brubaker.

#### Consideration of an Ethics Document for Board Members

Dr. Hoffman advised that the Federation of Chiropractic Licensing Boards (FLCB) reasoned that its board members should be held to standards that specifically related to their functions as FCLB board members. Consistent with this reasoning, FCLB developed a code of ethics in 1999 for its

board members to follow. She stated that even though the code was written ten years ago, there really isn't anything that has or should be changed. After brief discussion, Dr. Hoffman moved that the Board of Medicine consider development of a code of ethics for the members of the Virginia Board of Medicine.

Dr. Harp suggested that it be developed in the form of a guidance document and commented that this would be an appropriate task for a number of board members at a retreat/workshop. The motion was seconded and carried unanimously.

Physician Survey from the Healthcare Workforce Data Center

Dr. Harp informed the Committee that the DHP Workforce Data Center has been charged with the responsibility of assessing current resources and making projections for future workforce needs. The Center subcommittee on physicians is currently developing a survey to be incorporated into the renewal process in 2010 for physician licensees. The Committee reviewed the proposed survey and offered a number of helpful suggestions that clarified the survey questions to better solicit the data sought.

Proposal for Board Workshop

The Workshop Committee comprised of Drs. Hoffman, Reynolds, Mackler and Gen. Adams-Ender suggested the dates of December 4-5, 2009 on which to hold a Board workshop. After discussion, Dr. Cothran called for the question. The Committee unanimously agreed to accept the date. Gen. Adams-Ender recommended that the President send out personal letters to the board members to underscore the importance of their attendance. All agreed.

Announcements

**Next scheduled meeting:** December 4, 2009. There were no other announcements.

**Adjournment:** With no other business to conduct, the meeting adjourned at 10:33 a.m.

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Jane Piness, MD  
President

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William L. Harp, M.D.  
Executive Director

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Colanthia Morton Opher  
Operations Manager