

**VIRGINIA BOARD OF MEDICINE
FULL BOARD MINUTES**

February 20, 2014

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Mackler called the meeting of the Board to order at 8:42 A.M.

ROLL CALL

MEMBERS PRESENT: Stuart Mackler, MD, President
Wayne Reynolds, DO, Vice-President
Kenneth Walker, MD, Secretary-Treasurer
Randy Clements, DPM
Lori Conklin, MD
Siobhan Dunnavant, MD
Irina Farquhar, PhD
Deborah DeMoss Fonseca
Frazier Frantz, MD
David Giammittorio, MD
Robert Hickman, MD
Lorri Kleine, JD
Kevin O'Connor, MD
Ray Tuck, DC

MEMBERS ABSENT: Syed Ali, MD
Barbara Allison-Bryan, MD
Kamlesh Dave, MD
Jane Maddux

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Executive Director, Discipline
Barbara Matusiak, MD, Medical Review Coordinator
Alan Heaberlin, Deputy Executive Director, Licensing
Colanthia Morton Opher, Operations Manager
Denise Mason, Receptionist
Elaine Yeatts, DHP Senior Policy Analyst
Erin Barrett, JD, Asst. Attorney General

OTHERS PRESENT: Jerry Canaan, HDJN
Kim Pekin, NOVA Birth Center
Mike Jurgensen, MSV
Marinda Shindler

EMERGENCY EGRESS PROCEDURES

Dr. Reynolds read the emergency egress procedures for Conference Room 2.

APPROVAL OF THE October 24, 2013 MINUTES

Dr. Dunnivant moved to accept the minutes of October 23, 2013. The motion was seconded and carried unanimously.

ADOPTION OF AGENDA

Dr. Dunnivant moved to adopt the agenda as amended by Dr. Harp. The motion was seconded and carried unanimously.

INTRODUCTION OF NEW BOARD MEMBERS

The Board welcomed newly-appointed Board members Frazier Frantz, MD, Ray Tuck, DC and Lorri Kleine, JD. Each gave a brief self-introduction.

PUBLIC COMMENT ON AGENDA ITEMS

Dr. Mackler acknowledged and welcomed the guests that were present.

There was no public comment on the agenda items.

SUMMARY SUSPENSION PROCEEDINGS

Pursuant to Section 54.1-2408.1 of the Code of Virginia, a quorum of the Virginia Board of Medicine met to receive and act upon information indicating that the following practitioners may have violated certain laws and regulations relating to the practice of medicine in the Commonwealth of Virginia. Pursuant to its authority under Section 54.1-2408.1 of the Code, the Board concluded that a substantial danger to the public health or safety warrants suspension of the license to practice medicine and surgery in the Commonwealth of Virginia for the following practitioners:

The case of Edward C. Dillon, MD was presented by Julia Bennett, AAS. Dr. Walker moved to suspend; the motion was seconded by Dr. O'Connor. The vote was unanimous.

The case of Jeffrey P. Ginther, MD was also presented by Julia Bennett, AAS. Dr. O'Connor moved to suspend; the motion was seconded by Dr. Hickman. The vote was unanimous.

The case of Roger Morgan Phillips, MD was presented by Corie Wolf, Assistant Attorney General. Dr. Dunnivant moved to suspend; the motion was seconded by Dr. O'Connor. The

vote was unanimous.

NEW BUSINESS

Adoption of Guidance Document 85-10 – High-Risk Pregnancy Disclosure Statements

Ms. Yeatts, DHP Agency Senior Policy Analyst, advised that in 2009 legislation was passed by the General Assembly mandating that the Board of Medicine adopt regulations to require licensed midwives to disclose to their clients options for consultation and referral to a physician and also evidence-based information on health risks associated with the birth of a child outside of a hospital or birthing center, when certain conditions were present.

Ms. Yeatts noted that an Ad Hoc Work Group comprised of 3 members of the Full Board and 3 members of the Advisory Board on Midwifery met to develop evidence-based information that would be provided to women considering a birth at home or in a birthing center.

Dr. Dunnivant, Chair of the Ad Hoc and Ms. Pekin, CPM member of the Advisory Board on Midwifery and of the Ad Hoc Work Group, fielded questions from the Board regarding the compilation of the list of conditions, and the differences between nurse midwives and certified professional midwives. Dr. Dunnivant stated that the work of the Group was a good collaborative effort that was patient-centered and as a result, the disclosure statements are a blend of midwifery and medical literature and practice.

Ms. Pekin was asked to request that the Advisory Board on Midwifery consider the inclusion of Group B Strep as a risk factor.

After a brief discussion, Dr. Reynolds moved to accept Guidance Document 85-10 – High-Risk Pregnancy Disclosure Statement. The motion was seconded and carried unanimously.

DHP DIRECTOR'S REPORT

There was no report.

REPORT OF OFFICERS AND EXECUTIVE DIRECTOR

PRESIDENT'S REPORT

Dr. Mackler had no report.

VICE-PRESIDENT'S REPORT

Dr. Reynolds expressed his gratitude to everyone for their words of encouragement and support shown to him and his family.

SECRETARY-TREASURER'S REPORT

Dr. Walker had no report.

EXECUTIVE DIRECTOR'S REPORT

- Revenue and Expenditures Report

Dr. Harp briefly reviewed the Revenue and Expenditures report. The Board's cash on hand as of December 31, 2013 was \$6.25 million. Dr. Harp highlighted expenditures allocated for Data, Enforcement, Administrative Proceedings and services from the Attorney General.

- FY2014 Second Quarter Key Performance Measures

Dr. Harp said that due to Dr. Matusiak's management and diligence, the Board's clearance rate was 100%. The pending caseload older than 250 business days was at 16%. And the percent closed within 250 business days was 96%. Dr. Harp thanked the Board members for their availability for case review.

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

- Enforcement and APD Hours

Dr. Harp reviewed the Board's usage of the Administrative Proceedings Division and the Enforcement Division for 2013 and to date in 2014.

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

- Health Practitioners Monitoring Program Statistics

Dr. Harp noted the total number of Medicine participants in the program to be 109.

This report was for informational purposes only. No action was required.

- FSMB and US Senate Letters

Dr. Harp referred to the letter released by the Federation of State Medical Boards showing the support of Congress for FSMB's "efforts to streamline the licensing process for physicians who wish to practice in multiple states, thus helping facilitate the use of telemedicine and increasing access to care throughout the United States". The Federation's Interstate Compact Taskforce has been evaluating the benefits of compact licensure for telemedicine. A compact approach will require an amendment to the Code of Virginia.

Dr. Harp referred to a statement made by Mr. Heretick captured in the October 24, 2013 minutes:

Mr. Heretick advised that the concept of using an interstate compact is the oldest form of government we have. He said that each state would be allowed to judge for itself whether or not to join with another state; one size does not fit all. He also said that the physician would be subject to disciplinary action by the state in which the patient resides. He further noted that FSMB asked for and got a meeting with Representative Charles Boustany, Chair of the Health Subcommittee of House Ways and Means in the middle of budget negotiations to discuss this model. Mr. Heretick noted that this issue is evolving at a rapid rate.

- FSMB and REMS Training

Dr. Harp said that FSMB is providing great support to the Boards that are dealing with bad prescribing issues, and that Virginia will be receiving funds for a least one live REMS training session. Dr. Harp noted that the Board adopted FSMB's guidance document on the prescribing of opioids at its October 2013 meeting.

Committee and Advisory Board Reports

Dr. Harp reviewed the updated Committee assignments and asked that any questions or concerns be addressed to him or Dr. Mackler.

Dr. Dunnivant moved to accept the committee reports en bloc with the noted amendments. The motion was seconded and carried unanimously.

The chair called for a break and the meeting reconvened at 10:25 a.m.

Other Reports

Assistant Attorney General

For the benefit of the new Board members, Ms. Barrett introduced herself and explained her role at the Board. Ms. Barrett then provided an update on legal matters concerning Dr. Vuyyuru and Dr. Petrie.

No action was required by the Board.

Board of Health Professions

Dr. Farquhar had no report.

Podiatry Report

Dr. Clements had no report.

Chiropractic Report

Dr. Tuck had no report.

Dr. Harp announced that Valerie Hoffman, DC, immediate past Board President and chiropractic member of the Board, is running for a position on the FSMB Board of Directors and will be at the Annual Meeting in April in Denver. Dr. Mackler, Mr. Heaberlin, and Ms. Barrett will be attending and will do what they can to support Dr. Hoffman with her campaign.

Joint Board of Nursing and Medicine

There was no report.

Regulatory and Legislative Issues

- Report from the 2014 General Assembly

Ms. Yeatts presented an updated report on the 2014 Session of the General Assembly highlighting those bills that directly affect the Board of Medicine. Special attention was given to HB891 which gives special conference committees the authority to grant or deny an application for license, certification, or registration.

Ms. Deschenes explained the workings of our current process. Dr. Harp further explained that if passed, this bill will allow the Credentials Committee to make its own decision in a matter. The matter would go to a formal upon appeal by the applicant.

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

- Chart of Regulatory Actions

Ms. Yeatts provided an update on the status of pending Board of Medicine regulations.

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

- Replacement of Emergency Regulations for Physician Assistants to Use Fluoroscopy

Ms. Yeatts briefly reviewed the statutory language, emergency regulations and the letters from AAPA and ARRT, both supporting the adoption of the regulations and remarked that the replacement regulations are identical to the emergency regulations currently in effect. Dr. Reynolds moved to adopt the proposed regulations as presented. The motion was seconded and carried unanimously.

- Regulatory Recommendation on Education Programs for Licensed Acupuncturists

Ms. Yeatts referred to the DRAFT fast-track regulations that were recommended by the Advisory Board on Acupuncture at its February 4, 2014 meeting. Ms. Yeatts advised that the proposed change would allow the Board to license graduates of a school in candidacy status for

accreditation by ACAOM as long as they meet all other licensing requirements.

It was noted that there are currently three acupuncture schools in candidacy status in Virginia, and if the regulations remain unchanged, those graduates will have to go elsewhere to be licensed. Virginia would lose them as a resource.

After discussion, Dr. Dunnivant moved to adopt the fast-track regulatory action to amend 18VAC85-110-50. The motion was seconded and carried unanimously.

- Telemedicine Guidance Document

Dr. Harp explained that Board staff frequently fields inquiries regarding telemedicine and suggested that an ad hoc committee be established to look at the issue, ascertain whether a guidance document is needed, and if so, develop it.

Dr. Dunnivant, Dr. Conklin, Dr. O'Connor, Ms. DeMoss Fonseca and Ms. Kleine all volunteered to serve on the ad hoc.

Licensing Report

- License Count

Mr. Heaberlin reviewed the licensing count from 2010 to 2013, noting a 16% increase in activity with no increase in licensing staff.

- Report on Electronic Verifications

Mr. Heaberlin stated that license verification has become the bane of existence for the Board. He said that in 2010, staff processed 5,607 verifications and in 2013, 6,630 – a 15% increase in 3 years. After explaining the Board's current verification process, Mr. Heaberlin proposed the use of Veridoc, an online verification system.

Gene Browning, DHP Database Administrator, addressed the Board's concerns about data security relative to the use of the Veridoc system.

Dr. Dunnivant moved that the Board approve a 3-year term with Veridoc, and during that time, determine whether or not it would be beneficial to develop an in-house system. The motion was seconded and carried.

For clarification, Dr. Harp informed the Board that all contracts are executed by the Department of Health Professions.

Discipline Report

Ms. Deschenes announced the changes to the case docket for the day and that a short Board

member training session would be held after lunch.

Reminders Page

Travel vouchers for today's meeting should be submitted no later than March 24, 2014.

Selection of Nominating Committee

Dr. Hickman, Dr. O'Connor and Dr. Clements volunteered to serve on the Nominating Committee. The Committee will convene prior to the Board meeting on June 19, 2014 and determine its slate of officers for the Board's consideration.

Announcements

There were no announcements.

Adjournment: With no other business to conduct, the meeting adjourned at 12:06 a.m.

Stuart Mackler, M.D.
President, Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Recording Secretary