

**VIRGINIA BOARD OF MEDICINE  
LEGISLATIVE COMMITTEE MINUTES**

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Friday, January 23, 2015

Department of Health Professions

Richmond, VA

**CALL TO ORDER:** The meeting convened at 8:39 a.m.

**MEMBERS PRESENT:** Kenneth Walker, MD, Vice-President, Chair  
Siobhan Dunnivant, MD  
Maxine Lee, MD  
Ray Tuck, DC

**MEMBERS ABSENT:** Syed Salman Ali, MD  
Barbara Allison-Bryan, MD, Secretary-Treasurer  
Kamlesh Dave, MD

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Jennifer Deschenes, JD, Sr. Deputy Director, Discipline  
Alan Heaberlin, Deputy Director, Licensure  
Barbara Matusiak, MD, Medical Review Coordinator  
Colanthia Morton Opher, Operations Manager  
Elaine Yeatts, DHP, Senior Policy Analyst

**OTHERS PRESENT:** One attendee that did not sign in

**ROLL CALL**

**EMERGENCY EGRESS INSTRUCTIONS**

Dr. Tuck provided the emergency egress instructions.

**APPROVAL OF MINUTES OF SEPTEMBER 19, 2014**

Dr. Dunnivant moved to approve the minutes of September 19, 2014. The motion was seconded and carried unanimously.

**ADOPTION OF AGENDA**

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

## **PUBLIC COMMENT**

There was no public comment.

## **NEW BUSINESS**

### **Status of Regulatory Actions**

Ms. Yeatts provided an update on the status of regulatory actions affecting the Board of Medicine. It was noted that the Regulations Governing the Practice of Physician Assistants – Qualifications for fluoroscopy, the Regulations Governing the Practice of Licensed Acupuncturists – Acceptance of graduates of candidacy programs, and the initial regulations for the registration of Surgical Assistants and Surgical Technologist will become effective February 13, 2015.

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

### **Report from the General Assembly**

Ms. Yeatts advised the Committee that the Department is monitoring 83 bills at the General Assembly and noted that 13 of those came directly from DHP.

During Ms. Yeatts' review, the Committee briefly discussed HB 1695 – Health regulatory boards; powers and duties, health care practitioners with mental illness, HB 2063 – Telemedicine services; provision of health care services; and HB 1282 – Administrative Process Act; amends disciplinary proceedings. Updates on the progress of all the bills will be provided at the Full Board meeting, February 19, 2015.

Dr. Walker called for a break at 9:50. The Committee reconvened at 10:05.

### **Consideration of a fee for Court Certifications**

Mr. Heaberlin informed the Committee that in order for an out-of-state physician to be certified as an expert witness in a medical malpractice case in the Commonwealth, the attorney must present a letter to the judge attesting to the individual's qualifications for licensure. In order to obtain this letter, the attorney sends the Board the potential witness' CV. Board staff checks to ensure that the individual holds a medical degree, has passed an appropriate examination, and has completed the required post graduate training. Then a certification letter is drafted and, along with the physician's CV, is sent to the Executive Director for his signature. After approval by the Executive Director, the certification letter goes to Dr. Brown, DHP Agency Director or his designee for signature, and then back to Board staff for notarization, processing and mailing. Mr. Heaberlin estimated that staff processes approximately 300 of these requests a year. Requests have been reviewed for 250 different law firms. Mr. Heaberlin stated that this process is currently being provided free of charge and asked the Committee to consider establishing a fee that is appropriate to cover the processing time.

Dr. Dunnavant questioned the accuracy of the certification since limited documentation was being used to qualify the witness. Mr. Heaberlin pointed to the disclaimer in the certification letter advising that the Board's determination is based on the proposed witness meeting minimal qualifications and is not to be interpreted as a guarantee to licensure.

Ms. Barrett suggested that a standard contract covering the process and fee be developed and entered into with the requesting attorney, and a bill be put in the 2016 General Assembly Session codifying the decision.

Dr. Dunnavant moved to recommend to the Full Board that a fee of \$100.00 be required for processing licensure certification requests. The motion was seconded and the floor opened for discussion.

During the discussion, Ms. Deschenes pointed out that the law allows a reasonable fee for processing FOIA requests and sees these requests as falling into a similar category.

Dr. Tuck agreed that there should be a fee charged, but questioned whether \$100.00 is sufficient given all the steps and people involved in the process.

After the discussion, Dr. Dunnavant amended her motion to include the Board's consideration of any documentation Mr. Heaberlin could provide on what other states charge for the same process. The amended motion was carried unanimously.

#### Presentation of Consent Order

Ms. Deschenes announced that the consent order would not be presented due to the lack of a quorum.

### **ANNOUNCEMENTS**

There were no additional announcements.

**Next meeting** – May 15, 2015

**Adjournment** - With no other business to conduct, the meeting adjourned at 10:24 a.m.

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Kenneth J. Walker, MD  
Chair

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William L. Harp, MD  
Executive Director

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Colanthia M. Opher  
Recording Secretary