

**VIRGINIA BOARD OF MEDICINE
LEGISLATIVE COMMITTEE**

MINUTES

September 26, 2003

The Legislative Committee chaired by Dianne L. Reynolds-Cane, MD met on Friday, September 26, 2003, at 8:30 a.m., at the Department of Health Professions ("DHP"). A quorum was present.

MEMBERS PRESENT: Dianne L. Reynolds-Cane, Chair
Carol E. Comstock, RN
Robert P. Nirschl, MD
Robert J. Bettini, MD
Christine Ober Bridge (arrived after agenda item 3)
Malcolm L. Cothran, Jr., MD (arrived after agenda item 2)

MEMBERS ABSENT: Thomas B. Leecost, MD, DPM

STAFF PRESENT: William L. Harp, MD, Executive Director
Ola Powers, Deputy Executive Director of Licensure
Karen W. Perrine, Deputy Executive Director of Discipline
Kate Nobsch, Deputy Executive Director, Physician Profile
Elaine Yeatts, DHP Senior Regulatory Analyst
Gail Jaspen, Chief Deputy Director, DHP
Carmen M. Quinones, Recording Secretary

GUESTS PRESENT: Susan Ward, VHHA, Elizabeth Hanock, VLGA, Rich Shinn, VPCA,
Carrie Eddy, CQH/VDH.

ADOPTION OF AGENDA

Dr. Nirschl moved to adopt the agenda as amended to include the NOIRA for Nurse Practitioners. The motion was seconded, discussed and carried unanimously.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment.

APPROVAL OF MINUTES OF JANUARY 24, 2003

Ms. Comstock moved to approve the minutes of January 24, 2003. The motion was seconded, discussed and carried unanimously.

#1 Chart of regulatory action

Ms Yeatts presented the Board of Medicine regulatory action chart. No action was necessary.

#2 Proposed regulations for fee increase pursuant to HB 1441 (18 VAC 85-20-10 et. seq.)

Ms. Yeatts asked the Committee to recommend that the Board adopt regulations to replace emergency regulations for fee increases. Dr. Bettini moved to recommend the approval of the proposed regulations. The motion was seconded and discussed. The Committee voted three to one to accept, with Ms. Comstock opposed.

#3 Proposed regulations on issuance of 30 day authorization for practice as an Athletic Trainer (18 VAC 85-120-75)

Ms. Yeatts asked the Committee to consider proposed regulations recommended by the Advisory Board on Athletic Training for a 30-day authorization to practice. After some discussion, Dr. Nirschl moved to recommend the 30-day authorization. The motion was seconded and discussed. Ms. Comstock offered an amendment to the motion to increase the 30 days to 45 days, with a 15 day extension to 60 days at staff discretion. The amended motion was seconded, discussed and carried with a four to one vote, with Dr. Bettini opposed.

#4 Fast-track regulatory action on status for acupuncture accreditation (18 VAC 85-110-10 et seq.)

Ms. Yeatts explained the fast-track regulatory process and the process for the accreditation of schools of acupuncture. She presented the request from the Advisory Board of Acupuncture to accept candidacy status acupuncture programs. Candidate schools are those that have passed the review process to candidacy status, but have not yet been granted accreditation by ACAOM. Dr. Cothran moved to recommend the Advisory Board proposal. The motion was seconded and discussed extensively. It was decided that additional information would be obtained from the ACAOM regarding the accreditation process and brought back for the full Board's consideration in October.

#5 Grace period for respiratory care continuing education

Ms. Yeatts explained the problem regarding the continuing education requirement for renewal effective July 2003. The recommendation of the Advisory Board on Respiratory Care was to grant a six month extension for CE requirements to licensees whose birth months fell between January 1, 2003 and July 1, 2003 in order to give them a full two years to collect their CE. Dr. Cothran moved to recommend a six month extension. The motion was seconded, discussed and carried unanimously.

#5.5 NOIRA for Nurse Practitioners

Ms. Yeatts offered a NOIRA regarding the need to amend the regulations for licensure requirements for Nurse Practitioners. Dr. Bettini moved to adopt the NOIRA as presented. The motion was seconded, discussed and carried unanimously.

#6 DHP legislative proposal regarding delegation to agency subordinates

Dr. Harp presented DHP's legislative proposal to amend section 54.1-2400 of the Code of Virginia. There was discussion regarding the definition of the term "subordinate". Ms. Bridge moved that staff propose language to recommend to the full Board that would reflect the Committee's concerns. The motion was seconded, discussed and carried unanimously. Ms. Comstock wanted to clarify that the discussion was not in response to the Richmond Academy of Medicine's letter of August 27, 2003, but their own concerns about the language.

#7 Case categories amenable to Confidential Consent Agreement (CCA)

The Committee discussed Confidential Consent Agreements and the options presented previously by board staff. Ms. Comstock moved to recommend option number 2, which would create a CCA committee to make the determination if a CCA would be offered to resolve a complaint. The motion was seconded and discussed. After discussion, Ms. Comstock requested to withdraw her motion. Her request was accepted. Dr. Nirschl moved to recommend option number 1, which mirrors the current process for probable cause determination/recommendation for disciplinary proceedings and pre-hearing consent orders. The motion was seconded and discussed. Ms. Bridge offered an amendment to add more specific language to option number 1 to include the medical review coordinator. The motion as stated was to recommend to the full Board to use the current process for making a probable cause determination and to include the medical review coordinator in determining whether a CCA should be offered. The amended motion was seconded, discussed and carried.

Dr. Cothran moved to restate the statutory criteria for the use of CCA's and to provide three examples to include: 1) failure to complete continuing education, 2) advertising, and 3) failure to complete the Physician Profile. Other violations involving minor misconduct would be left to the discretion of the President and other designated decision makers. The description of the case categories and examples would be preceded with the language "to include, but not limited to". The motion was seconded and discussed. Dr. Harp asked for clarification that "to include, but not limited to", authorized the reviewers of cases to offer a CCA in a case involving standard of care issues. The committee agreed. The motion was carried unanimously.

#8 Regulatory action on ethics

Ms. Yeatts asked the Committee to make a recommendation to the full Board regarding regulations on ethics. Dr. Cothran moved that staff review the AMA Code of Medical Ethics, other professional societies' codes of ethics, the Code of Virginia and other available resources and draft a document to bring back to the Ad Hoc Committee on Ethics. The motion was seconded, discussed and carried.

#9 Announcements

Dr. Reynolds-Cane congratulated everyone who attended the Board's workshop in Charlottesville on September 12th and 13th. Dr. Reynolds-Cane was complimentary of the efforts of DHP and Board staff in support of the workshop.

#10 Next meeting

The next meeting of the Legislative Committee is tentatively scheduled for February 20, 2004.

ADJOURNMENT

With no further business to discuss, the Legislative Committee of the Board of Medicine adjourned.

Dianne L. Reynolds-Cane, MD
Chair

William L. Harp, MD
Executive Director

Carmen M. Quinones
Recording Secretary