

# VIRGINIA BOARD OF MEDICINE MINUTES

Thursday, June 24, 2004

Department of Health Professions

Richmond, Virginia

**CALL TO ORDER:** The meeting of the Full Board convened at 8:29 a.m.

**MEMBERS PRESENT:** Dianne Reynolds-Cane, MD, President  
Carol E. Comstock, RN, Vice President  
Harry C. Beaver, MD  
Sandra Anderson Bell, MD  
Robert J. Bettini, MD  
Christine Ober Bridge  
Malcolm L. Cothran, Jr., MD  
Stephen E. Heretick, JD  
Thomas B. Leecost, DPM  
Gary P. Miller, MD  
Juan M. Montero, II, MD  
Robert P. Nirschl, MD  
Clarke Russ, MD  
Kenneth J. Walker, MD  
Jerry R. Willis, DC

**MEMBERS ABSENT:** James F. Allen, MD  
Alvin Edwards, MDiv, PhD  
Sue Ellen B. Rocovich, PhD, DO

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Barbara Matusiak, MD, Medical Review Coordinator  
Karen Perrine, Deputy Executive Director of Discipline  
Ola Powers, Deputy Executive Director of Licensure  
Robert Nebiker, Director, DHP  
Gail Jaspens, Deputy Director, DHP  
Elaine Yeatts, DHP Senior Policy Analyst  
Emily Wingfield, Assistant Attorney General  
Colanithia Morton Opher, Recording Secretary

**OTHERS PRESENT:** Roberta Heffernan, RT, Chair, Radiological Technology Board  
Bonnie McQuaid, RRT, Chair, Respiratory Care Advisory Board  
Patricia Cooper, OT, Chair, Occupational Therapy Advisory Board  
Scott Johnson, Medical Society of Virginia  
Matthew Gainey, Pharm.D., Purdue Pharma L.P.  
Jolynn Hamelman, VSRC  
Susan Ward, VHHA  
Scott Dralle, VSRC  
Tony Cappelini  
Leslie Herdegen, Virginia Law and Government Affairs

## **ADOPTION OF AGENDA**

Dr. Russ moved to change the agenda at the discretion of the President. The motion was seconded and carried. Dr. Reynolds-Cane advised that a portion of agenda item #15, Presentation of Plaques, would follow the adoption of the agenda. The motion was seconded and carried unanimously.

Dr. Russ moved to have item number #10, Confirmation of Sanction Reference Manual, be moved to be included with item #17, Sanctions Reference Cover Sheet and Work Sheet Training. The motion was second and carried unanimously.

## **PRESENTATION OF PLAQUES**

Dr. Reynolds-Cane addressed the board members and guests for the purpose of expressing board member appreciation for the outstanding work done by the staff at the Virginia Board of Medicine and the Department of Health Professions.

Dr. Reynolds-Cane highlighted the increased rate in probable cause case closure and total compliance case closure. Dr. Reynolds-Cane acknowledged the great strides the Board has made over the past year, but also noted the need for additional staff to accomplish the leap from the current case closure rate of 58% to the Board's goal of 100%.

Dr. Reynolds-Cane recognized the Board's past year's performance in handling the increase of legislative matters, including the promulgation of professional ethics regulations, emergency regulations on delegation to an agency subordinate, and regulations involving disciplinary matters.

Dr. Reynolds-Cane acknowledged the excellent guidance, leadership, and oversight of manpower needs of the board to the skills of William Harp, MD, Executive Director of the Board of Medicine, and Robert Nebiker, Agency Director.

Dr. Reynolds-Cane introduced Mr. William H. Leighty, Chief of Staff to Mark Warner, Governor of Virginia, who also recognized Dr. Harp, Mr. Nebiker, other board staff and board members for the accomplishments achieved by the board and agency, and the manner in which they had been reached.

Mr. Leighty relayed that Governor Warner is very proud of the work being done by the Board, especially the numbers that were achieved last year and the tremendous amount of work that the Board puts into its accomplishments. Mr. Leighty and Dr. Reynolds-Cane proceeded to present recognition plaques on behalf of the Board to Robert Nebiker for the Department of Health Professions staff and William Harp, MD to the Board of Medicine staff for outstanding and dedicated service to the public.

## **PUBLIC COMMENT ON AGENDA ITEMS**

Jolynn Hamelman, RT representing the Virginia Society for Respiratory Care, addressed the society's legislative proposal for 2005 that would allow respiratory care practitioners to administer drugs in settings outside the hospital.

Ms. Hamelman asked the Board to support the change in language to the Drug Control Act that would allow the performance of full respiratory care to individuals in an alternate environment, outside the hospital setting, including but not limited to, physician's offices, nursing homes, asthma camps, and transport teams under the medical direction of a physician.

#### **APPROVAL OF MINUTES OF APRIL 22, 2004**

Dr. Russ moved to approve the minutes of the Full Board dated April 22, 2004. The motion was seconded and carried.

#### **REPORTS OF OFFICERS AND EXECUTIVE DIRECTOR**

##### President – Dianne Reynolds-Cane, MD

Dr. Reynolds-Cane commented on the annual meeting of the Federation of State Medical Boards, held April 30-May 1, 2004. Dr. Reynolds-Cane stated that the meeting was very successful in that the House of Delegates passed several resolutions regarding changes in bylaws, nominations, pain management matters, expert witnesses, international medical schools, etc. Dr. Reynolds-Cane advised that the next meeting is scheduled for June 2005 in Dallas.

##### Vice President – Carol Comstock, RN

No report.

##### Secretary/Treasurer - Vacant

As the office of Secretary-Treasurer has been vacant since Rev. Taylor's departure, Dr. Harp presented the revenue and expenditures summary and reported that finances are within budget for fiscal year 2004. Dr. Harp explained that expenditures for express services are currently a little over the annual budget. Dr. Harp also advised that skilled services were up because of experts retained to review disciplinary cases of the board. He also noted that office furniture is up because of furniture replacements for Dr. Matusiak, the new Medical Review Coordinator.

Dr. Harp advised that the \$560,000 transfer for FY2004 to the Department of Health for the scholarship program to physicians to serve in underserved areas had taken place. He indicated he thought this item would be in the budget for FY2005 and FY2006. Dr. Russ asked that Dr. Harp request written explanation from Dr. Stroube with the Department of Health detailing the usage of the \$560,000 transfer.

Dr. Harp answered Ms. Bridge's questions regarding the monies that were paid for unemployment.

## Executive Director – William Harp, MD

Dr. Harp advised that upon Dr. Russ' initiative, the Board, in an effort to help the doctors comply with continuing education sent a letter to the chief executive officers of Virginia medical facilities and hospitals for posting.

Dr. Harp reported that the Legislative Committee addressed the concern of doctors signing death certificates and lack of compliance within reasonable time periods. The Committee suggested that an ad hoc committee be formed to look at the matter. At this point, several agencies/facilities have agreed to participate and a meeting date is in the process of being confirmed.

Dr. Harp reported that the board had agreed at the April 22<sup>nd</sup> meeting to vote on the use of laptops at its June meeting. Dr. Russ moved that the discipline board staff use the laptop for cases that are amenable to that approach. The motion was seconded and carried unanimously. Ms. Bridge suggested that password protected access to this information via website would be more advantageous. Mr. Nebiker advised that the Board of Dentistry is trying a pilot program that would allow such an avenue to access this information, but security issues must be worked out.

Dr. Harp reviewed the HPIP statistics and noted that the Board currently has 125 licensees in this program with physicians accounting for 102. Dr. Harp advised that he presented this information along with a brief presentation on impairment to staff members at UVA.

Dr. Harp noted that the current committee structure of the board will change dramatically July 1<sup>st</sup> since at least 5 members would be leaving the board. At this point, all of the representatives for the Board of Medicine delegated to serve on the Joint Boards of Medicine and Nursing, (Dr. Reynolds-Cane, Dr. Beaver and Dr. Bettini) are leaving on July 1, 2004. Dr. Harp advised that he wanted to raise everyone's awareness about the issue of committee service.

Dr. Harp reported on the availability of two free courses for continuing education on pain management on the internet, one through AMA and another through Dr. Fitzwater and the Health Communication Research Institute.

Dr. Harp also advised that the Federation of State Medical Boards has just revised its model policy guidelines on the treatment of pain and he suggested that some of the board members attend the educational workshops that will be coming up at a later date.

## **COMMITTEE REPORTS**

### Executive Committee – Dr. Reynolds-Cane

The Executive Committee had no meetings since the last Full Board Meeting, April 22, 2004.

### Legislative Committee – Ms. Comstock

Ms. Comstock recommended that the Board approve the minutes with a change to the last bullet under item #8 – **Review and comment on FSMB’s Scope of Practice draft document** to say “She recommended that Virginia not consider financially reimbursement enhancements incentives for physicians and non physicians in determining the scope of practice in underserved areas.” Ms. Perrine pointed out that this change must be presented to the Legislative Committee but that the Board in session could approve them as presented. Dr. Russ moved that the minutes be approved with the exceptions as noted by Ms. Comstock and that they be referred back to the Legislative Committee for further revision. The motion was seconded and carried.

### Credentials Committee - Dr. Allen

The Credentials Committee has had no meetings since the last Full Board Meeting, April 22, 2004.

### Committee of the Joint Boards of Medicine and Nursing - Dr. Bettini

Dr. Bettini moved to accept the minutes of the Committee of the Joint Boards of Medicine and Nursing dated April 21, 2004. The motion was seconded and carried unanimously.

### Subcommittee on Pharmacotherapy for Weight Loss – Dr. Reynolds-Cane

Dr. Bell moved to accept the minutes of the Subcommittee on Pharmacotherapy for Weight Loss dated May 24, 2004. The motion was seconded and carried unanimously.

### Subcommittee on Vitamins, Minerals, and Supplements – Dr. Reynolds-Cane

Dr. Russ moved to accept the minutes of the Subcommittee on Vitamins, Minerals, and Supplements dated May 24, 2004. The motion was seconded and carried unanimously.

### Advisory Board on Physician Assistants – Erwin Fender, PA

Dr. Harp, in Mr. Fender’s absence, recommended that the minutes of the Advisory Board on Physician Assistants dated May 20, 2004 be accepted with the name correction. Dr. Bell moved that the minutes be accepted with the change. The motion was seconded and carried unanimously.

### Advisory Board on Occupational Therapy – Barbara Gallagher, OT

Barbara Gallagher, OT, Chair recommended that the minutes of the Advisory Board on Occupational Therapy dated May 19, 2004 be accepted. Dr. Russ moved that the minutes be accepted. The motion was seconded and carried unanimously.

#### Advisory Board on Respiratory Care – Bonnie McQuaid, RRT

Bonnie McQuaid, RRT, Chair recommended that the minutes of the Advisory Board on Respiratory Care dated May 19, 2004 be accepted. Ms. Comstock moved that the minutes be accepted. The motion was seconded and carried unanimously.

#### Advisory Board on Acupuncture – Ms. Forman

Jody Forman, L.Ac., Chair recommended that the minutes of the Advisory Board on Acupuncture dated May 18, 2004 be accepted. Ms. Bridge moved that the minutes be accepted. The motion was seconded and carried unanimously.

#### Advisory Board on Radiological Technologists – Ms. Heffernan

Dr. Harp, in Ms. Heffernan's absence recommended that the minutes of the Advisory Board on Radiologic Technology dated May 18, 2004 be accepted; he also advised that this meeting did not muster a quorum. Ms. Comstock moved that the minutes be accepted. The motion was seconded and carried.

#### Advisory Board on Athletic Training – David Pawlowski

Dr. Harp, in Mr. Pawlowski's absence, recommended that the minutes of the Advisory Board on Athletic Training dated May 20, 2004 be accepted. Ms. Comstock moved that the minutes be accepted. The motion was seconded and carried unanimously.

#### Ad Hoc Committee on the Promulgation of Professional Ethics – Dr. Reynolds-Cane

Dr. Edwards moved to accept the minutes of the Ad Hoc Committee of the Board of Medicine on Ethics dated March 12, 2004 and April 9, 2004. The motion was seconded and carried unanimously.

### **OTHER REPORTS**

#### Board of Health Professions - Dr. Reynolds-Cane

No report.

#### Assistant Attorney General – Emily Wingfield, AAG

Ms. Wingfield stated that there have been no additional lawsuits brought against the Board of Medicine since the April 22<sup>nd</sup> meeting. There is currently only one pending and the status remains the same.

#### Department of Health Professions – Mr. Nebiker

Mr. Nebiker announced the publication of an electronic newsletter that will be available in mid-July for board members that will cover issues such as strategic planning processes, including caseload data, ratings of processing of applications for original licenses and provisions of

information to the public on regulations for licensees. In this last quarter we had 500,000 visits between our three websites.

Mr. Nebiker also mentioned a conference on October 7-8 in Richmond that will address prescription drug monitoring. Mr. Nebiker pointed out that Dr. Walker has chaired an advisory committee for the department dealing with prescription drug monitoring program in southwest Virginia, and at their last meeting, the committee unanimously adopted a number of recommendations that will be made to 2005 session of General Assembly, including that the program go statewide, that the program be expanded beyond Schedule II to include Schedule III and IV drugs and that access by physicians to the records of their patients become a statutory requirement. Mr. Nebiker advised that he will be sending out a letter to all board members with additional information regarding this conference in the near future. Mr. Nebiker advised that both the program and the conference are being totally federally funded.

#### Podiatry Report - Dr. Leecost

No report.

#### Chiropractic Report - Dr. Willis

Dr. Willis advised that he attended the NCBE and one of the main focus was the PACE program that addresses the standardization of continuing chiropractic education.

### **NEW BUSINESS**

#### **1. Proposed Regulations:**

##### **Recommendation on proposed regulations for standards of practice/professional ethics**

Ms. Yeatts provided a timeline that described the development of this regulation over the past year. The Ad Hoc Committee's amended draft on these regulations was included in the agenda and was being submitted for adoption

Mr. Heretick moved to adopt the proposed regulations for standard of practice /professional ethics for the ten professions regulated by the Board. The motion was seconded, discussed and carried.

##### **18 VAC 85-20 Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic (including a draft from the Ad Hoc Committee on Ethics & drafts from subcommittee on pharmacotherapy for weight loss and the use of vitamins, mineral and supplements)**

Dr. Russ opposes the intentions of 18VAC85-20-21(B) stating that he does not think a practitioner can treat a family member objectively; that it would not be proper care. Dr. Reynolds-Cane advised that this point was discussed at length with the Ad Hoc Committee and special committees and the language being presented is what is considered, along with (A) and (C) which are qualified circumstances to protect the

public. Dr. Russ and Dr. Cothran requested that (B) be written since the intentions are not clear. Dr. Montero closed discussion on this issue. The motion was seconded and carried with Dr. Russ opposing.

Dr. Walker moved to adopt the proposed regulations for 18VAC-85-21; Treating and prescribing for self and family. The motion was seconded and carried with Dr. Russ opposing.

#### **18VAC 85-20-22 – Patient records.**

Ms. Yeatts advised that this section is consistent with the confidentiality rules of 32.1 and will allow the board to cite a practitioner for a potential violation in a disciplinary case. She advised that this requires provision of records, maintenance of records in a timely, accurate and complete manner and sets a schedule for maintenance with exceptions as noted, along with the requirement of a practitioner to advise patients of records retention and the manner of destruction.

Dr. Russ expressed a concern of the burden and an unnecessary hardship on retiring physicians and any family that loses by disability or death their physician family member. Also, he expressed a concern that the issue of relocation and retirement was not covered. Ms. Yeatts explained that laws passed in 2003 and 2004 specifically address what would happen to the records if there is a sale or close of a practice and relocation and the committee did not feel it necessary to repeat the requirements of law.

Dr. Leecost stated that the regulation needs to clearly address the transfer of records to a hospital, facility or a consolidated facility that keeps medical records.

Ms. Yeatts explained that the intent of regulation is to spell out how long you have an obligation to that patient for the record to be available regardless who has possession of the actual documentation. Dr. Leecost advised that he does not disagree with the intent of the language but thinks that it leaves areas for assumptions. Ms. Yeatts suggested a word change to §18VAC85-20-22 D(2) to say, “Records that have previously been transferred to another practitioner or provider or provided to the patient ...” Ms. Wingfield agreed that the language change would cover any health care institutions. Ms. Yeatts suggested creating an (F) where the §54.1-2405 Code Section is referenced on records in a case where a practice has closed or transferred the records to provide additional clarity.

Dr. Montero moved to accept §18VAC85-20-22, Patient Records with the suggested language changes. The motion was seconded.

Dr. Miller also asked that a reference to Code Section 32.1 be added to (B) of this section to reiterate the time frame for obtaining copies of records from other practitioners.

After discussion, Dr. Montero called the question. Dr. Cothran moved to accept 18VAC85-20-22, Patient Records with the amendment to reference appropriate code sections where applicable. The motion was second and carried unanimously.

#### **18VAC85-20-24 – Practitioner-patient communication; termination of relationship.**

Dr. Cothran moved to accept 18VAC85-29-24, Practitioner-patient communication; termination of relationship. The motion was moved, second, discussed and carried unanimously.

Dr. Leecost expressed a concern about section 4 which addresses research activities. Ms. Yeatts advised that a language change may address his concern.

Ms. Comstock and Dr. Russ both would like to see a more defined time length provided for “reasonable time” in this Code Section. After discussion, Dr. Cothran moved not to define reasonable time. Ms. Comstock then moved to amend section (B) 2 to say ... “services unavailable without documented notice to the patient...” The motion was seconded and carried unanimously.

Ms. Yeatts revisited Code Section reference in §32-1-162.18 in section 4 previously addressed by Dr. Leecost and suggested the change that prior to involving them as subjects in human research to be consistent to the language of the code. Dr. Leecost moved to change the language in the code as noted. The motion was seconded and carried. Dr. Russ stated that this change does not rectify the concerns of data gathering, etc. Mr. Nebiker suggested the language addition of “which affects their care”. Dr. Russ moved to accept the Code Section with the noted language changes. The motion was seconded and carried unanimously.

Dr. Russ moved to accept the section. The motion was seconded and carried unanimously.

#### **18VAC85-20-25 – Practitioner responsibility**

Dr. Russ moved to accept this section. The motion was seconded and carried unanimously.

#### **18VAC85-20-30 – Advertising ethics**

Dr. Russ moved to accept this section. The motion was seconded and carried unanimously.

#### **18VAC85-20-40 – Vitamins, minerals and food supplements**

Dr. Russ moved to accept this section. The motion was seconded and carried unanimously.

#### **18VAC85-20-50 – Anabolic steroids and 18VAC85-20-80 – Solicitation or remuneration in exchange for referral.**

Dr. Russ moved to accept these sections. The motion was seconded and carried unanimously.

#### **18VAC85-20-90 – Pharmacotherapy for weight loss**

Dr. Cothran moved to accept this section. The motion was seconded and carried unanimously.

### **18VAC85-20-100 – Sexual contact**

Dr. Russ moved to accept this Code Section. The motion was seconded and carried unanimously.

### **18VAC85-20-105 – Refusal to provide information**

Dr. Cothran moved to accept this Code Section. The motion was seconded and carried unanimously

Dr. Cothran suggested that the chapters governing the allied health practitioners under the Board of Medicine being presented for acceptance be voted on as a whole and only those sections with individual changes discussed.

Dr. Willis moved that chapters, 40, 50, 80,101,110, and 120 which respectively represent the proposed regulatory changes which govern the practice of Respiratory Care, Physician Assistants, Occupational Therapists, Radiologic Technologists, Licensed Acupuncturists, and Athletic Trainers be accepted. The motion was seconded and carried unanimously.

Dr. Russ addressed §18VAC85-50-176 (C) stating that it does not apply to the Physician Assistant profession. Dr. Cothran suggested that the language stay as presented for those rare occasions in which this might become an issue. After discussion, Dr. Nirschl moved to extract this provision. The motion was seconded, discussed. The motion failed three to ten with Dr. Leecost not voting.

Dr. Russ motioned that section 178 (A) be extracted from §18VAC85-20 and add shall accurately within the limits of education and scope of practice. The motion was seconded but not carried.

Dr. Walker called the question. The motion for extraction of §18VAC85-20-178(A) failed with the vote being two to twelve.

Dr. Russ referred to page 48 of the agenda package address agenda item #2 of the Licensed Acupuncturist minutes that state “Practitioners shall inform patients of risks, benefits and alternatives that a prudent acupuncturist in Virginia in a similar specialty would tell a patient. Dr. Russ stated that the Board should not evaluate people on anything other than acupuncture skills and knowledge especially if there is an advisory board and standards of professional conduct. Ms. Yeatts advised that the advisory board is specifically limited by law and can not advise the full board on practice of physicians or chiropractors who use acupuncture in their practice. The regulations pertaining to licensed acupuncturists do not apply to other licensed practitioners.

## **2. Emergency Regulations**

Dr. Miller moved to adopt a new Chapter as emergency regulations for delegation to an agency subordinate to implement provisions of HB577 of the 2004 General Assembly and to approve a Notice of Intended Regulatory Action for replacement of the rules. The motion was seconded and carried unanimously.

Dr. Russ moved that the Board accept the first three paragraphs and see how the program works before considering accepting some of the others. Dr. Russ stated that he would also like to see quarterly written reports to the Board of all of the actions with the President's signature using the Sanctions Reference Study as framework for the discipline. Ms. Perrine advised that the Bylaws already provided for the Board President to determine if the case would be appropriate for an agency subordinate. Ms. Perrine further stated that the Legislative Committee discussed at length the use of language to say include "instead" of "shall not include". Ms. Perrine advised that the list was comprised of case categories currently being used by the Department of Health Professions and HIPDB to determine what may be appropriate. Ms. Perrine acknowledged the request for quarterly reports by Dr. Russ and advised that proper steps would be taken to provide that information.

Dr. Russ proposed that the Board consider putting on the initial list of 18VAC85-15-20 1,2,3,4,5 and 8 to see how the system works. The Board President supervises and signs off on each action. Ms. Bridge advised again that this was discussed at length at the Legislative Committee and she would make like to amend the motion to say the expand the cases that may be delegated to an agency subordinate shall be limited to the existing number 1- practitioner profile; existing number 2 – continuing education; existing number 3 – advertising; and add number 4 – compliance with board orders, number 6 – default on student loans, and number 8 – failure to provide medical records; but not include number 5 – action by another regulatory board or number 9 – billing fraud. The motion was seconded and carried.

Dr. Russ moved that quarterly written reports be supplied to the board. The motion was seconded, discussed. Dr. Harp asked if the Board would accept reports at board meetings instead of quarterly. The motion carried unanimously.

### **Adoption of Emergency regulations for Nurse Practitioners**

Ms. Yeatts discussed the adoption of proposed regulations governing nurse practitioners. She advised that the Committee of the Joint Boards has reviewed the language and approved the amendments. The Board of Nursing has also adopted this language and it is being recommended by the Board's Legislative Committee for adoption.

Mr. Heretick moved to adopt the emergency regulations for licensure of nurse practitioners to implement provisions of HB855 of the 2004 General Assembly and approval of a Notice of Intended Regulatory Action for replacement of the rules. The motion was seconded and carried unanimously.

### **Adoption of Emergency Regulations for 18VAC90-30; Licensure of Nurse Practitioners**

Ms. Yeatts advised that these changes are necessary to conform the Nurse Practitioner regulations to the implementation of the Nurse Licensure Compact law. She advised that this regulation would allow individuals who are licensed in another state to practice in Virginia without holding a Virginia license as a RN. Ms. Yeatts stated that the Committee of the Joint Boards has reviewed the language and approved the amendments. The Board of Nursing has adopted this language and it is being recommended by the Board's Legislative Committee for adoption.

Ms. Comstock moved to adopt the emergency regulations for licensure of nurse practitioner to implement provision of HB633 of the General Assembly for the Nurse Licensure Compact and approval of a Notice of Intended Regulatory Action for replacement of the rules. The motion was seconded and carried unanimously.

### **Adoption of Emergency Regulations for Occupational Therapy**

Ms. Yeatts advised that "assistant" needs to be added to new section 61 on page 110 of the agenda package.

Dr. Bell moved that the Board adopt emergency regulations to establish certification by NBCOT as the credential necessary for use of the protected title of OTA and approval of a Notice of Intended Regulatory Action for replacement of emergency regulations. The motion was seconded and carried unanimously.

### **3. Consideration of Petition for Rulemaking – Respiratory Care Practitioners**

Dr. Russ moved to accept the petition and approve publication of a Notice of Intended Regulatory Action to amend §18VAC85-40, Regulations Governing the Practice of Respiratory Care. The motion was seconded and carried unanimously.

### **4. Adoption of Final regulation for Athletic Trainers**

Dr. Bell moved to adopt the final regulations as recommended by the Legislative Committee as presented in the agenda package. The motion was seconded and carried unanimously.

### **Adoption of Exempt Regulations §18VAC85-120 – Regulations Governing the Licensure of Athletic Trainers**

Dr. Nirschl moved to adopt the exempt regulations as recommended by the Legislative Committee as presented in the agenda package. The motion was seconded and carried unanimously.

### **5. Draft Bills for the 2005 General Assembly**

- **Legislative proposal to remove clinical psychology from Section §54.1-2912**
- **Amendment to §54.1-2914 to include applicants**
- **Amendment to §54.1-2914 to add unlicensed practice**

- Radiological technology legislative proposal to remove hospital exemption from license
- Amendment to §54.1-3408 to allow athletic trainers to possess and administer Schedule VI topicals and epinephrine
- Amendment to §54.1-2901 to address athletic trainers who accompany teams coming to Virginia for games/events

Dr. Willis moved to adopt the draft legislation as the legislative package proposed by the Board of Medicine for the 2005 Session of the General Assembly with authorization to distribute to interested parties for constituency comment. The motion was seconded and carried unanimously.

Dr. Russ moved to expand the amendment to §54.1 addressing athletic trainers who accompany teams coming to Virginia for games/events to provide for visiting team physicians and other allied health care professionals in good standing engaging in the practice of a profession regulated by the board and allow them to be issued a temporary license to practice their profession within the scope of their skills. The motion was seconded and carried.

Dr. Russ moved to have the health care professional for visiting teams be licensed in their own jurisdiction and under the authority of a Virginia licensee with his written recommendation and endorsement by the athletic director of the institution to determine accountability. The motion was seconded. After discussion, Dr. Russ withdrew the motion.

## **6. VSRC legislative proposal regarding the administration of drugs**

Dr. Harp advised that a representative from VSRC came before the Legislative Committee in May 2004 and the Committee choose not to take any action on this legislation which broadens the authority for respiratory therapists to administer medication in settings other than hospitals, etc.

Ms. Comstock moved that the Board take no action on the proposal. The motion was seconded.

Ms. Hamelman, RT and Dan Riley, RT addressed the board members and answered questions such as the initiation of this legislation, what training current respiratory therapists are required to have, how competency is proven to their employer, especially by those who are not new graduates, benefits of this legislation, etc.

After lengthy discussion, Dr. Cothran called the question. The motion to take no action was carried unanimously.

## **7. Adoption of Guidance Documents for Nurse Practitioners**

Ms. Comstock moved to adopt the statement relating to treatment by Women's Health Nurse Practitioner of men for sexually transmitted diseases as a guidance document. The motion was seconded and carried unanimously.

## **8. Review of closure letters for cases that do not move forward to proceedings or CCA's**

Dr. Russ moved to accept the proposed new letters for use by board staff. The motion was seconded and carried.

Ms. Wingfield questioned the implication of the wording "public" proceedings in the letter to the source for cases closed with no violation, undetermined or by CCA.

After discussion, Dr. Willis called the question. Dr. Bettini asked for an amendment to the motion to revise the letter mentioned above by adding to the third paragraph thorough before review and replace ... ~~public~~ proceedings with disciplinary proceedings. The motion was seconded and carried unanimously.

## **9. Review and comment on FSMB's Scope of Practice draft document**

Dr. Harp advised that the Federation of State Medical Boards has asked the Virginia Board of Medicine for comments by June 30<sup>th</sup> on the scope of practice draft documents – this issue has already been visited by the Legislative Committee and their comments are recorded in their minutes on page 29 of the agenda package.

Dr. Nirschl moved to accept the Legislative Committee's comments for submission to the Federation of State Medical Boards by their request date. The motion was seconded and carried unanimously.

## **10. Review and recommendation of FSMB's new Model Policy on Pain Management as a guidance document**

Dr. Harp referred to page 174 of the agenda package, and advised that the new Model Policy on Pain Management was just approved at the Federation's House of Delegates in April and recommended to the Board as a guidance document by the Legislative Committee in May. He advised that the policy parallels the Board's guidelines to evaluate cases and thinks it would be a nice companion document on pain management.

Dr. Beaver moved to adopt the FSMB's new Model Policy on Pain Management as a guidance document to be used by the Board. The motion was seconded and carried unanimously.

## **11. Licensing Report**

Dr. Harp, in Ms. Powers' absence, reported that 29% of the Board's renewing licensees have renewed on line. Dr. Harp reported at that the automated option to request a paper renewal has been activated and that he also expects the percentage of those renewing online to increase. Dr. Harp also reported that 60% of those renewing on-line are completing the workforce survey provided for the deans of the medical schools.

Dr. Harp reported that the issue on how to proceed in the instances of non-compliance with continuing education requirements would be discussed at the July 16<sup>th</sup> Legislative Committee.

## **12. Practitioner Report**

Dr. Harp, in Ms. Nosbisch's absence, reported that in 2002 the board was required to collect emergency contact information and to date 97% of the doctors that have Virginia addresses have complied.

Dr. Harp also advised that the profile information has received about 50,000 total visits or 2 million hits in May 2004.

## **13. Discipline Report**

Ms. Perrine reviewed HB577, on page 87 of the agenda package, which repeals the current section that sets forth the processes and authority of the informal conference committee. As of July 1, 2004, the Board will rely solely on Virginia Code Section §54.1-2400(10) for authority of those committees. Ms. Perrine highlighted the major changes: i.e.

- there is no longer a statutory requirement for the board president to refer a matter for an informal conference; however that process is now defined in the bylaws;
- when an informal conference wants to refer a matter for a formal hearing, it can simply state that the matter should be referred since there is no longer a requirement for specific written findings to be presented to the Board, thus expediting the process of moving from one level to the next;
- censure is no longer listed as a sanction; and
- the informal conference committee can reinstate or deny reinstatement to a petitioner and eliminate the somewhat confusing current process that allows the individual to proceed to an informal or formal. Therefore, informal conference committees will be reviewing petitions for reinstatement, which should reduce formal hearing caseloads during full Board meetings.

Ms. Perrine also referred to the charts provided in the agenda package that reflects the number of cases closed since 1995; current open case status; CCA's processed; continuances – informal conferences; continuances – formal hearings; and proceedings conducted.

Dr. Russ moved to approve the changes made to implement HB577 as it relates to informal fact finding committees and have the same reports provided to the Board on an annual timeline. The motion was seconded and carried unanimously.

## **14. Presentation of Plaques and Passing of the Gavel**

Dr. Reynolds-Cane and Dr. William Harp presented plaques, on behalf of the Board, to Dr. Robert Bettini, Dr. Harry Beaver, Dr. Clarke Russ; and in his absence, Dr. James Allen for their outstanding dedication and terms of service to the Board of Medicine.

Dr. Harp presented Dr. Reynolds-Cane a plaque, on behalf of the Board, for her outstanding dedication and terms of service to the Board of Medicine.

15. **Sanctions Reference Manual – amendments from April board meeting and Cover Sheet and Work Sheet Training**

Dr. Leecost moved to accept the amendments made to the Sanctions Reference Manual to be used for informal fact finding committees for disciplinary actions. The motion was seconded and carried.

Dr. Harp advised staff and Mr. Kauder agreed that the Cover Sheet and Work Sheet Training be postponed until next available meeting.

16. **Adjournment Time**

With no further business to discuss, Dr. Willis moved to adjourn the Board Meeting. The meeting adjourned at 2:17 p.m.

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Dianne Reynolds-Cane, MD  
President

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William L. Harp, M.D.  
Executive Director

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Colanthia Morton Opher  
Recording Secretary